

BEFORE THE
ILLINOIS COMMERCE COMMISSION

JAMAL SHEHADEH) DOCKET NO.
-vs-) 02-0002
CENTRAL ILLINOIS PUBLIC SERVICE COMPANY)
)
Complaint as to provide electric)
service at required minimum voltage at)
1312 Sportsman Drive in Taylorville.)

Springfield, Illinois
August 7, 2002

Met, pursuant to notice, at 1:00 P.M.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES:

MR. LINDSAY REESE
P.O. Box 506
Taylorville, Illinois 62568

(Appearing on behalf of the Complainant)

MR. STEPHEN R. KAUFMANN
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(Appearing on behalf of Central Illinois
Public Service Company)

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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Number 02-0002. This docket concerns the complaint by Jamal Shehadeh against Central Illinois Public Service Company regarding an alleged deficiency in voltage.

May I have the appearances for the record, please.

MR. REESE: Lindsay Reese for Jamal Shehadeh, the Petitioner.

JUDGE ALBERS: And could you give us your address and phone number as well, please?

MR. REESE: Post Office Box 506, Taylorville, Illinois 62568, phone number 217/824-8107.

JUDGE ALBERS: Thank you.

MR. KAUFMANN: Stephen R. Kaufmann, K-A-U-F-M-A-N-N, on behalf of CIPS, 607 East Adams, Suite 800, Springfield, Illinois 62701, (217) 544-1144, .

Also present for CIPS are Bob Derber and Jon Carls.

1 JUDGE ALBERS: All right. Thank you.

2 Let the record reflect that there are no others
3 wishing to enter an appearance.

4 Are there any preliminary matters this morning?
5 This afternoon; excuse me. Okay. Hearing none.

6 MR. KAUFMANN: No, Your Honor.

7 JUDGE ALBERS: We can hear first from the
8 Complainant, but I'll go ahead and swear in both
9 witnesses now just to save a little bit of time, so
10 if you could both please stand and raise your right
11 hand.

12 (Whereupon the witnesses were sworn
13 by Judge Albers.)

14 JUDGE ALBERS: Thank you.

15 Mr. Reese.

16 MR. REESE: I call Jamal Shehadeh.

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1 **JAMAL SHEHADEH**

2 called as a witness on behalf of the Complainant,
3 having been first duly sworn, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. REESE:

7 Q. State your name for the court, please.

8 THE WITNESS:

9 A. Jamal Shehadeh.

10 Q. And, Jamal, you filed a complaint against CIPS
11 here with the Illinois Commerce Commission. Is that
12 right?

13 A. Correct.

14 Q. And it's regarding voltage below the standard
15 rate.

16 A. Correct.

17 Q. And what is the standard rate?

18 A. It's 113 volts.

19 Q. And how did you determine that your voltage was
20 lower than the standard rate?

21 A. In December and November of 2001 I took voltage
22 recordings at my main disconnect after I had my

1 Christmas lighting display on, and the voltage was
2 at times below 113.

3 MR. KAUFMANN: Your Honor, let me interpose an
4 objection at this point. Typically, as you know,
5 there's some foundation laid for the prepared
6 testimony which has heretofore been filed, and that
7 would be the normal way to proceed. In effect, he's
8 supplementing the record at this point in our view.

9 JUDGE ALBERS: I was having the same thought.

10 I realize you entered this case, so to speak,
11 after it had already begun.

12 MR. REESE: Uh-huh.

13 JUDGE ALBERS: But, as Mr. Kaufmann indicated,
14 we typically have the prefiled testimony submitted
15 so as to save the time of everyone presenting their
16 direct case at the actual hearing and also to give
17 everyone an idea of what type of discovery would be
18 conducted and just to avoid surprises, so to speak.

19 We do have Mr. Shehadeh's direct testimony that
20 he previously filed as well as his rebuttal
21 testimony. Now to the extent you have any
22 corrections or clarifications that might be in that

1 testimony, that's fine to make today.

2 MR. REESE: Uh-huh.

3 JUDGE ALBERS: But was it your intention to go
4 ahead and present an entire direct case orally
5 today?

6 MR. REESE: No, just briefly regarding voltage
7 and what's happened since the discovery has
8 occurred. I don't know. I was just going to go
9 over a few questions with him regarding what
10 happened to his appliances and such and such of that
11 nature. I wasn't aware that Jamal would be limited
12 to just the short paragraph that he initially gave
13 for his initial testimony. I assume that while you
14 could prepare direct testimony and it might be easy
15 for the court, I was unaware that no other testimony
16 could be offered at the testimonial hearing.

17 JUDGE ALBERS: Well, why don't we get what he
18 previously filed admitted into the record or at
19 least offered for admission.

20 MR. REESE: Uh-huh.

21 JUDGE ALBERS: Depending on the nature of what
22 you want to ask, we can take it from there. So if

1 you want to go ahead and introduce your client, so
2 to speak, as far as his --

3 MR. REESE: Well, I think he only gave -- at
4 the time this is his complaint and his testimony,
5 and this is all he really has, one page.

6 JUDGE ALBERS: Right. Then he had the
7 attachment to it that was several pages which
8 appeared from a --

9 MR. REESE: Voltage meter.

10 JUDGE ALBERS: Okay.

11 MR. REESE: Voltage meter relation, and so, in
12 effect, this might -- this would be what the basis
13 of his testimony would be, but certainly there's
14 more details involved with the -- because what he
15 did, if you look at the Complainant's testimony, was
16 give a general description of what the problems
17 were. He didn't necessarily go into detail
18 regarding why the problems were caused or how they
19 could be fixed or any of that kind of nature in his
20 initial testimony, and I was unaware that there was
21 some procedure as to where he would be limited to
22 his testimony if he gave any testimony at all. It

1 was my understanding that he wasn't required to even
2 give early testimony by the code. That's what I --
3 I may be wrong. I don't have the code.

4 JUDGE ALBERS: Well, I mean we spent a great
5 deal of time at the status hearings I think on and
6 off the record explaining the process to him, and I
7 realize you didn't begin work as his attorney until
8 relatively recent I guess, as I recall.

9 MR. REESE: Uh-huh.

10 JUDGE ALBERS: And, like I said, obviously I'm
11 not sure what else you're going to ask him, so why
12 don't we take it one step at a time and first worry
13 about what he has prefiled.

14 MR. REESE: Okay. And just -- I assume that
15 the prefilings were already -- would already be --
16 since they were filed with the court, would already
17 be into evidence in the file and they wouldn't need
18 to be readmitted again since they were already in
19 once.

20 JUDGE ALBERS: Well, the short answer is no.

21 MR. REESE: Okay. So I need to readmit --

22 JUDGE ALBERS: Right. It's not part of the

1 record until admitted here at the hearing.

2 MR. REESE: Uh-huh.

3 JUDGE ALBERS: Because often times somebody
4 would submit several pages of testimony, realize
5 before the hearing there was some miscalculation or
6 there's an error in it, and so they would show up at
7 the hearing, make those corrections on the record,
8 and then move for admission.

9 MR. REESE: Well, in this case the testimony --
10 since he didn't know that he had to put on his whole
11 case on paper, it's only one paragraph long, so we
12 can't very well stand just on that alone.

13 JUDGE ALBERS: Well, he also submitted his
14 rebuttal testimony which is this here.

15 MR. REESE: That's correct. That would be just
16 rebutting Mr. Derber's testimony, but it wouldn't
17 necessarily be direct testimony. It would more or
18 less be a -- that's rebuttal. It isn't rebutting
19 necessarily his, and Mr. Derber's testimony goes way
20 beyond the scope of rebutting his testimony since
21 obviously Jamal's is only one paragraph long.

22 JUDGE ALBERS: That may be.

1 MR. REESE: And that's where we run into
2 problems with this because I think since Mr. Jamal
3 -- or Jamal didn't have an attorney at that time, he
4 was unfamiliar with your rules in regard to his
5 one-page --

6 JUDGE ALBERS: Well, and we spent a great deal
7 of time trying to explain to Mr. Shehadeh --

8 MR. REESE: Exactly.

9 JUDGE ALBERS: -- the process and gave him
10 opportunities to ask. Now perhaps given the unique
11 situation here, Mr. Kaufmann may or may not be
12 willing to concede some leeway here.

13 MR. KAUFMANN: We would not, Your Honor. As
14 you've indicated, we spent many pages of transcript
15 explaining to Mr. Shehadeh the process, and he made
16 the decision to proceed without an attorney. So,
17 you know, as far as leeway is concerned, I'm not
18 going to agree to that because it prejudices my
19 client in not being prepared to perhaps rebut some
20 additional things that he's going to say today.

21 I do think it would be appropriate to simply,
22 as we all do, just lay a foundation for his initial

1 one-page testimony as well as the rebuttal
2 testimony, put those into the record, ask him then
3 if he has any corrections to be made to those. Then
4 they're admitted into evidence, and then he's
5 submitted to cross-examination, and we're prepared
6 to proceed in that fashion, but I think, you know,
7 by virtue of the fact that he has counsel who has
8 recently been retained, I don't think we should
9 throw the rules and procedures out the window.

10 JUDGE ALBERS: He had a point there about
11 Mr. Derber's responsive testimony though.

12 MR. KAUFMANN: Well, the opening testimony
13 basically in general fashion called into question
14 the key issue in the case and that was as to whether
15 CIPS was not providing the correct voltage to the
16 Shehadeh household, and, you know, we think that our
17 testimony rebuts that, gives some background related
18 to the issue because you can't really look at that
19 issue in a complete vacuum, and then he was given an
20 opportunity even after retaining Mr. Reese to
21 prepare rebuttal testimony, and they went through
22 almost on a question-by-question basis our prepared

1 testimony, so I think it's fully briefed, if you
2 will, by way of testimony, and I think both sides at
3 this point have in the record what they need. It's
4 a matter of just, you know, staying with that
5 prepared testimony and having that be the basis of
6 the hearing today.

7 JUDGE ALBERS: Okay.

8 MR. REESE: Well, I'd like -- I'd ask for a
9 recess to review the code and see if actually that's
10 the way the procedure is here, if it's strictly that
11 way. It would seem to me that it might be simpler
12 for the hearing officer and easier for attorneys to
13 do it in that fashion, but I don't know -- and I
14 need some time to research this code, obviously, to
15 see whether or not at this kind of a hearing you can
16 stray or expand onto your previous testimony, or if
17 he's made any kind of agreement in the docket that
18 that's all he would do.

19 Generally in other administrative -- and I
20 don't know; maybe there's a special rule here at ICC
21 hearings that says you can't stray beyond any
22 previous testimony that you've turned in.

1 Obviously, this testimony hasn't even been admitted
2 into evidence yet at this time, and so therefore I
3 don't know why we would be bound by it since it's
4 not even admitted yet. If, in fact, I admitted this
5 and said that this is what I want to stay on, then
6 that might be true, but since, in fact, we haven't
7 even admitted it into evidence yet, I don't know why
8 he can't testify to whatever he wishes. They had a
9 chance to do discovery. They took his deposition.
10 They had everything -- they could ask him any
11 question they want, just like a regular court of
12 law. Their deposition is quite thick.

13 I don't see any reason why -- even though it's
14 not probably the easiest way to do things, I'd be
15 surprised -- and I haven't looked yet, but I would
16 be surprised to find that there's some restriction
17 that he can't testify as to other elements or
18 factual circumstances that are involved in the
19 voltage dropping below 113 volts.

20 JUDGE ALBERS: Well, the easy answer to that is
21 that if we didn't rely on the prefiled testimony,
22 there would be no point to prefiled testimony.

1 MR. REESE: What's that?

2 JUDGE ALBERS: If we didn't rely on the
3 prefiled testimony, there would be no point to
4 having prefiled testimony.

5 MR. REESE: Well, I mean it's just like a
6 deposition. He'll have to stick to this. He's
7 signed it and he turned it in and filed it.

8 JUDGE ALBERS: Well, I'll grant you a short
9 recess if you want to research Code Part 200 for a
10 few minutes.

11 MR. REESE: I'd like to see if per se -- I mean
12 I'm not real sure what the -- like I say, I have no
13 idea what the code says in regard to prefiled
14 testimony or if you're limited exactly to that.

15 JUDGE ALBERS: Okay. I'll give you a few
16 minutes to look it up.

17 MR. REESE: Okay. Let me check on it.

18 JUDGE ALBERS: Why don't we recess for at least
19 five to ten minutes, and we'll come back then.

20 (Whereupon a short recess was
21 taken.)

22 JUDGE ALBERS: Back on the record.

1 Mr. Reese has had an opportunity to look at
2 Code Part 200. Mr. Reese, have you come to any
3 conclusions?

4 MR. REESE: I have, but I don't know if they're
5 the same conclusions the court might find. It does
6 indicate in 200 certainly that the Commission is
7 encouraged to have the parties file earlier
8 testimony. I would offer in argument to
9 Mr. Kaufmann's point that I think that alone doesn't
10 limit later testimony in regard -- to expound on the
11 same points that were made initially. In my
12 client's testimony it simply says, one paragraph
13 long, that the results of his service voltage
14 dropped below the required voltage of 113 line to
15 neutral, and that this did occur at times when my
16 service was below it's rated capacity of 200 amps.
17 Obviously, if my client is limited to just that
18 statement, that's the same as in his complaint in
19 the first place, so it doesn't really add -- even
20 his testimony here doesn't really add much to the
21 court's knowledge in regard to anything I suppose.

22 So I would ask that the court allow me to

1 question Mr. Shehadeh in regard to the facts behind
2 his claim that his voltage was less than 113 volts
3 on the various times that he's claimed in his
4 petition.

5 JUDGE ALBERS: And, Mr. Kaufmann, I'm assuming
6 your objection still stands?

7 MR. KAUFMANN: It does, Your Honor.

8 JUDGE ALBERS: Do you want to add to that?

9 MR. KAUFMANN: In addition to what I've said
10 before, I think the rules of the Commission, the
11 practice of the Commission, and certainly the many
12 pages of transcript which are a matter of record in
13 this case demonstrate that the procedure was to have
14 been followed. It was not, and we object to
15 expanding the Complainant's case at this point in
16 the manner suggested by Mr. Reese.

17 MR. REESE: And I would like to add, if I can,
18 I don't think it is expanding the case. I think the
19 case is simply the voltage is below 113, and by not
20 allowing him to testify in open court, in public, I
21 think you're just actually eliminating any chance to
22 prove his case, and limiting to this with no --

1 being there's nothing in the code that would
2 indicate that you can't testify in open court, in
3 public, would seem to me to show, you know, if we
4 follow these codes pretty strictly, that
5 Mr. Shehadeh has a right to testify regarding his
6 complaint, regardless whether or not he filed some
7 supplemental testimony. He can be held to this,
8 just like you could in a deposition. He can be held
9 to what he said here, but I don't think you can keep
10 him just from saying that only. It might be easier
11 for the Commission, but I don't think it is proper
12 law.

13 MR. KAUFMANN: We have respected the rights of
14 Mr. Shehadeh through two lawsuits filed in Christian
15 County, through a fully briefed appeal to the Fifth
16 District Appellate Court, through the first Illinois
17 Commerce Commission proceeding, and now through
18 this, and I know that the court has respected his
19 rights even coming as a pro se plaintiff, so we very
20 much take offense to any suggestion that we're not
21 allowing Mr. Shehadeh to exercise his rights. I
22 think we've all bent over backwards to give this

1 gentleman his day in court, his day in this
2 Commission, and here we are. They're not obviously
3 ready to proceed today. We are.

4 JUDGE ALBERS: Well, even without that last
5 comment, I'm prepared to sustain the objection. As
6 I indicated, Mr. Shehadeh was advised of the
7 Commission's policies and procedures. I don't
8 recall to what extent that description was on the
9 record. Typically when we have those types of
10 discussions in a status hearing or on the same day
11 as a status hearing, we conduct those off the record
12 given that they are not substantive in nature.

13 For whatever reason, Mr. Shehadeh, without the
14 advice of counsel at that time, submitted what he
15 submitted as his direct testimony, and that being
16 the case, that is what he'll be limited to as far as
17 what's going to be offered to be admitted into the
18 record.

19 MR. REESE: And I still don't quite understand
20 it, Your Honor. To the extent that then all he can
21 really say is that his line did go below 113, but he
22 can't say why or how or when or where or anything of

1 that nature, so the times and the dates and all
2 this, because he didn't have any times or dates as
3 to when it happened. It doesn't even say --

4 JUDGE ALBERS: Typically a witness explains
5 their position in their testimony when they file
6 that testimony. Now if it makes you feel any
7 better, I am prepared in my own questions for the
8 witness, I was going to ask him to explain to me the
9 significance of the attachment he submitted with his
10 direct testimony. Not knowing what that is exactly
11 going to cover, maybe it doesn't make you feel any
12 better, but, again, he had the opportunity.

13 MR. REESE: I understand. I just think that
14 the -- and you know my point is that I think that is
15 true, that he had the opportunity, but I don't think
16 he had to have everything in that opportunity. I
17 don't think he -- I don't see in the code where you
18 have to have all your testimony that you ever want
19 to give in a case all compiled in the documentation
20 and all sent in. I don't see that it says that in
21 the rules. I don't see that it says that anywhere.

22 JUDGE ALBERS: I'll leave to your imagination

1 the Pandora's box that could be opened if we allowed
2 people to not be limited to the prefiled testimony.

3 MR. REESE: I think that, in general, in most
4 courts of law you aren't limited. You're limited to
5 the relevance of the testimony as opposed to
6 relevance of the pretrial testimony. I mean how far
7 can you expound on 113 volts? All right. Okay.

8 JUDGE ALBERS: I think we've beaten this horse
9 sufficiently.

10 MR. REESE: I guess so. I don't like it, but
11 you're the boss.

12 Mr. Shehadeh, I'll continue the questions.

13 Q. You apparently filed this complaint and this
14 testimony at some point in time. Is that right?

15 A. Correct.

16 Q. All right. And was that what you filed?

17 A. Yes, it is.

18 Q. All right. And when did you file it? Do you
19 know?

20 A. January of 2002.

21 MR. REESE: Okay. I'd ask that the
22 Complainant's testimony be admitted into evidence at

1 this time, if it isn't already. It's already been
2 previously filed.

3 JUDGE ALBERS: I was thinking his testimony,
4 just for my own clarification, was that in May of
5 this year that it was submitted?

6 MR. REESE: He said January, but is it May? Is
7 that when you submitted this?

8 THE WITNESS: The complaint was filed in
9 January.

10 MR. REESE: Oh, I see, but you filed this in
11 May.

12 THE WITNESS: I believe so, yes.

13 MR. REESE: You didn't provide me with a file-
14 marked copy, so I don't really know. So you filed
15 this in May?

16 JUDGE ALBERS: That's all right. I just wanted
17 to be clear for the record what was being offered.

18 MR. REESE: Yeah, that makes sense. In your
19 testimony -- I don't know. I'll ask that it be
20 admitted into evidence, if that's how you want it
21 done.

22 JUDGE ALBERS: Typically that's the next step.

1 MR. REESE: Well, I guess you'd almost have to
2 because I have to do it anyway.

3 Q. You stated in here that the results concluded
4 that your service at times did drop below 113 volts.
5 In looking back on it now, do you know when those
6 times were?

7 MR. KAUFMANN: Objection, Your Honor, for the
8 reasons stated before.

9 JUDGE ALBERS: Sustained.

10 MR. REESE: Well, that's just adding to it.
11 It's not adding to it. That's more precisely
12 defining it.

13 MR. KAUFMANN: Same objection, Your Honor.

14 MR. REESE:

15 Q. Now you also filed some documents that were
16 included in this testimony. Is that right?

17 A. Correct.

18 Q. What documents were those?

19 A. They were documents that I obtained through
20 discovery procedures. They were voltage records
21 that CIPS made. They placed a recorder on my
22 service to measure my service during the months of

1 November and December. I mentioned the specific
2 times when the voltage dropped below 113.

3 I also included the specific part of the
4 Commerce Commission law that mentioned that the
5 voltage had to be above 113 volts line to neutral,
6 but I don't recall all the documents that I
7 submitted.

8 Q. Okay. And since that time there was some
9 discovery taken in this matter? Did you file a
10 request for discovery?

11 A. Yes, I did.

12 Q. And was that done after this Complainant's
13 testimony was filed?

14 A. I thought that was before.

15 Q. Did you -- after you got the discovery
16 documents from CIPS, companies, whatever they are,
17 did you learn anything new that might change this --
18 that might add to that testimony?

19 MR. KAUFMANN: Objection, Your Honor, for the
20 reasons that we have talked about both on and off
21 the record heretofore.

22 MR. REESE: I would bolster this argument with

1 the fact that I guess what CIPS is saying now is
2 that if you file testimony and then you get
3 discovery and you get new information, you can't use
4 that either? So what's the point of discovery?

5 JUDGE ALBERS: No. I think -- why don't we --
6 before you start to ask any more questions of the
7 witness, why don't we first turn to his rebuttal
8 testimony.

9 MR. REESE: Well, if I get into his rebuttal
10 testimony, then we have to get into Derber's. I
11 mean technically his rebuttal testimony is of no
12 value unless Mr. Derber's testimony is first
13 admitted. Wouldn't that be true? I mean I just
14 wonder how you even do that procedurally.

15 JUDGE ALBERS: Theoretically, yes. However,
16 typically when a witness takes the stand, we have
17 all the testimony that witness has tendered
18 previously.

19 MR. REESE: Sure.

20 JUDGE ALBERS: To be offered.

21 MR. REESE: Uh-huh.

22 JUDGE ALBERS: And we operate on the assumption

1 that any responsive testimony to some other witness
2 who has not yet taken the stand, we'll eventually be
3 able to tell, in theory, if Mr. Derber's testimony
4 is not admitted, then Mr. Shehadeh's rebuttal
5 testimony would not essentially have any meaning.

6 MR. REESE: That's true. And so then we're
7 going -- do you want me to just go ahead and go
8 through the issues? Because some of these issues I
9 guess we could go through. That's how you want me
10 to proceed then.

11 JUDGE ALBERS: Well, I'm not sure what you mean
12 by going through the issues.

13 MR. REESE: Well, what I basically asked him
14 was just what did he find out since discovery that
15 might change his initial testimony. I mean do you
16 have to change -- can you change your testimony at
17 any time throughout the hearing process if you get
18 new information, or how do you do that?

19 MR. KAUFMANN: Let me tell you as a factual
20 matter, there were documents exchanged prior to the
21 time that anybody filed any testimony, so that even
22 before the initial direct testimony of Mr. Shehadeh,

1 he had our documents, so it's incorrect to say that
2 this is newly discovered information.

3 We would not object to them simply laying a
4 foundation for the introduction of his rebuttal
5 testimony as filed, even after he retained
6 Mr. Reese, and letting it then stop at that and then
7 having him be tendered for cross-examination, which
8 is we understand the procedures of the Commission to
9 run.

10 JUDGE ALBERS: Yes, typically.

11 MR. REESE: And those procedures aren't
12 particularly in the Code, but those are procedures
13 that built up over time over common law I guess
14 throughout the Commission. Is that fair to say?

15 JUDGE ALBERS: I suppose in a general sense you
16 could describe it that way.

17 MR. REESE: Okay. And so it's more of a common
18 law thing that if it's not in the code, it's the bad
19 guy. There is no -- well, that's fine.

20 So, in other words, I don't know; what was the
21 objection to?

22 MR. KAUFMANN: Well, I believe counsel started

1 to ask questions about so-called newly discovered
2 evidence and information after the time that he
3 submitted his testimony, and factually it's not
4 accurate, and, secondly, he is limited to his
5 prepared testimony as prepared and submitted.

6 MR. REESE: And so I would argue that he's not
7 limited to that because if that was true and he got
8 information after this was submitted, then of course
9 I guess you'd have no choice but to dismiss and
10 refile because you'd have to stand on this one
11 paragraph the entire time. All I did was ask him
12 the question did he find anything new since this
13 testimony, and the answer has never been clear if he
14 has or he hasn't.

15 JUDGE ALBERS: Generally speaking, in my
16 experience I have seen it when a witness receives
17 new information in response to discovery requests
18 that were asked in response to testimony from
19 another party. Those responses would be included in
20 the rebuttal testimony as part of the rebutting of
21 that witness's testimony.

22 MR. REESE: But if the issue wasn't involved --

1 if the issue wasn't brought up in Mr. Derber's
2 direct examination, then there would be no
3 appropriate place to add the new information.

4 JUDGE ALBERS: Yes, that is true, because we
5 use the status hearing to identify the issues.

6 MR. REESE: And I recall at the last status
7 hearing I think I specifically did ask if we were
8 going to be able to put on testimony beyond
9 Mr. Shehadeh's one-page statement in there. It was
10 kind of -- I don't think anybody knew -- had a good
11 answer for me at that time.

12 JUDGE ALBERS: Well, as I indicated, as I
13 recall indicating, it was what kind of testimony do
14 you want me to put on.

15 MR. REESE: Right. I know.

16 JUDGE ALBERS: Clarifying or correcting things,
17 misstatements that are in his testimony. Perhaps it
18 wasn't 240 volts; he meant to say 120 volts. That
19 would be a correction, just typographical errors, so
20 to speak. To the extent that you want to add
21 several new direct questions to the testimony, that
22 would be beyond what was allowed.

1 MR. REESE: Okay. So if you have new
2 information then, if you have new information, even
3 though it's not in the code, common law practice
4 would say that you'd include it in your rebuttal to
5 another person's direct testimony, if you had new
6 information.

7 JUDGE ALBERS: Yes, as rebuttal to that
8 person's testimony.

9 MR. REESE: And that's not in the code, but
10 that's just in the common law of the Commission.

11 JUDGE ALBERS: Essentially.

12 MR. REESE: And what I would argue is how would
13 a pro se person, how would they ever be able to
14 figure that out? If it's not in the code and it's
15 not in the law that says that they're limited to
16 this, it's not in the law that they have to put in
17 new evidence that doesn't relate to the direct
18 evidence given by the respondent and somehow throw
19 that in as rebuttal to respondent's testimony?

20 JUDGE ALBERS: During the many opportunities
21 that I avail myself to them to ask questions about
22 the process and procedures here.

1 MR. REESE: Okay. So it's just teaching I
2 suppose.

3 JUDGE ALBERS: I understand the pro se
4 complainants may not be familiar with all the rules
5 and procedures. However, it's their decision to be
6 a pro se complainant.

7 MR. REESE: Okay.

8 Q. Mr. Shehadeh, -- so I guess you're ruling
9 against me, right?

10 JUDGE ALBERS: Yes, I am.

11 MR. REESE: Okay. I was waiting for the actual
12 hammer to fall. Then I'll move on.

13 Q. Mr. Shehadeh, Mr. Derber, an employee, not an
14 agent of CIPS, filed testimony that indicated that
15 -- I don't know when it was exactly filed, but it
16 was direct examination of Mr. Derber. You read
17 that, right?

18 A. Correct.

19 Q. And then we filed a rebuttal to that. Is that
20 correct?

21 A. Correct.

22 Q. And is that rebuttal contained here, at least

1 the answers to rebuttal contained here in this
2 document to the best of your knowledge?

3 A. Yes, it is.

4 Q. And we sent that in on a date of some -- oh,
5 August -- no, July sometime of this year. Is that
6 correct?

7 A. Correct.

8 Q. All right. And this contains simply your
9 rebuttal to his direct testimony. Is that fair to
10 say?

11 A. Yes, it is.

12 Q. It doesn't contain any objections you might
13 have to any other parts of his testimony. Is that
14 fair to say?

15 A. The parts of his testimony that I didn't feel
16 relevant I didn't respond to.

17 Q. Okay. And you didn't add any new information I
18 suppose that you had garnered since discovery on
19 your own case into this rebuttal. Is that fair to
20 say?

21 A. There were -- since my testimony I found out
22 that --

1 MR. KAUFMANN: Your Honor, let me object.
2 We're obviously now going beyond the prior -- the
3 court's rulings and --

4 JUDGE ALBERS: He might be correcting something
5 in his testimony, so we patient for a minute.

6 MR. REESE: I don't even know what he's saying.

7 A. Since my initial testimony I discovered the
8 time current curves that are for the fuses in my
9 main disconnect and I also discovered the voltage
10 rating for the meter.

11 MR. KAUFMANN: Your Honor, this is not
12 correcting testimony, and I move to strike his last
13 answer.

14 MR. REESE: Well, I think it is included in his
15 rebuttal, at least the first part of it was. I'm
16 not sure the second part was.

17 Q. You talked about two things, right?

18 A. Correct.

19 Q. And you talked about the --

20 A. Time current curve.

21 Q. -- time current curve which is in here, right?

22 A. I mentioned that.

1 Q. Right, but did you mention the volts and the
2 meter being at 120?

3 A. I didn't discover that until a few days ago.

4 Q. Okay.

5 JUDGE ALBERS: Can you show me where the time
6 current curve is incorrect in his --

7 THE WITNESS: We attached it to the document.

8 MR. REESE: Yeah, there should be a pile that
9 talks about the time current curve in regard to what
10 the drop would be on each leg of service. I think
11 that was included in there.

12 JUDGE ALBERS: Where exactly so I can see if
13 this is a correction or an addition?

14 MR. REESE: I don't think it really is a
15 correction. I just think he said he put it in
16 there. You aren't correcting that curve now, are
17 you?

18 THE WITNESS: No.

19 MR. REESE: So everything in here is still
20 basically correct from what you found. Let's just
21 go with this, and I'll let you -- I'm not going to
22 ask anything objectionable; I promise.

1 Q. So basically everything in --

2 JUDGE ALBERS: Wait, wait, wait, wait, wait.

3 I'm still trying to figure what just happened.

4 Okay. The first part of his answer --

5 MR. REESE: Basically what I'm going to do now,
6 Judge, is just ask if everything in here is still
7 the same and it's correct and I'll admit it into
8 evidence.

9 JUDGE ALBERS: I still have got the motion to
10 strike then.

11 MR. REESE: Okay. I'll acquiesce to his motion
12 to strike.

13 JUDGE ALBERS: Okay. Let the record show
14 Mr. Shehadeh's response to the question in dispute
15 is stricken.

16 MR. REESE: Okay.

17 Q. Mr. Shehadeh, is there anything that's changed
18 in here since you've rebutted all these specific
19 statements to Mr. Derber?

20 A. Those statements are still correct.

21 Q. Nothing new, nothing's changed as far as these
22 statements are concerned?

1 A. That's correct.

2 Q. You haven't found anything new or need to add
3 anything to these.

4 A. That's correct.

5 MR. REESE: Okay. I'd ask that the rebuttal
6 and the exhibits attached with the rebuttal be
7 admitted into evidence at this time.

8 JUDGE ALBERS: Any objection?

9 MR. KAUFMANN: No objection, Your Honor.

10 JUDGE ALBERS: Okay.

11 MR. REESE: Now that we're through with that, I
12 guess that's all I get to do. It's not very fun.

13 JUDGE ALBERS: Well, you're not done yet. I've
14 got a couple questions here just to be clear.

15 MR. REESE: Okay.

16 JUDGE ALBERS: You've got attached to his
17 direct testimony the several pages from the monitor
18 that was on the -- at some point on the transformer
19 I believe.

20 MR. REESE: Right. I'd like that admitted into
21 evidence also.

22 JUDGE ALBERS: And then attached to the

1 rebuttal testimony there were several pages, several
2 attachments. Do you have a copy of that with you?

3 MR. REESE: Of the rebuttal? Of the pages
4 attached? I'm sure I probably do here.

5 I think you just gave me a copy, didn't you,
6 Steve? Attachments to my rebuttal or his rebuttal,
7 Judge?

8 JUDGE ALBERS: To Mr. Shehadeh's rebuttal.

9 MR. REESE: Oh, yeah, I have those documents.

10 JUDGE ALBERS: I just want to make sure we have
11 the same attachments that are being admitted.

12 MR. REESE: Yeah, I'm sure -- I have no
13 question about that.

14 JUDGE ALBERS: Okay. There's the copy of the
15 ruling from Docket 01-0048.

16 MR. REESE: Sure. There should be an aluminum
17 wire table.

18 JUDGE ALBERS: The next thing I've got would be
19 two pieces of paper marked pages 34 and 35. The top
20 of the first one has the letter B.

21 MR. REESE: Right. That's more of the code and
22 procedure, spec book, that I think they're going to

1 ask to admit into evidence also.

2 JUDGE ALBERS: You've got the Fusetron
3 Dual-Element, Time-Delay, Class RK5 Fuses.

4 MR. REESE: Yes.

5 JUDGE ALBERS: There's two pages for that one.

6 MR. REESE: Yes.

7 JUDGE ALBERS: And Section 8, Utilization
8 Equipment.

9 MR. REESE: That's out of the specs from CIPS
10 which they're going to ask to be admitted also.

11 JUDGE ALBERS: And then there's Section 8.01
12 through 8.09, and then I have a service wire company
13 document along with a sheet depicting -- well, the
14 first line on it is: "The positive and negative
15 sequence reactances (X1 and X2) for a conductor are
16 given by:".

17 MR. REESE: Yes, that's correct.

18 JUDGE ALBERS: An aluminum wire table, and then
19 a copy of Section 410.300 of the Administrative
20 Code.

21 MR. REESE: Well, and I know -- I guess there
22 could be some clarification in regard to one of

1 these documents, so I'd ask if I can ask a question
2 in relationship to that very quickly.

3 Q. On the service wire, it would be page 2 where
4 it says service wire company here, I think it needs
5 to be identified what wire it is. On mine it's
6 circled. On your copy it wouldn't be, so I'd ask
7 Mr. Shehadeh what this document is and why it's
8 relevant to your case and why you included it. What
9 is it?

10 A. Okay. This document identifies the type of
11 wire that runs from the transformer that serves my
12 residence to the triplex, and it gives the maximum
13 ampacity rating of the wire.

14 Q. Where did you get it?

15 A. CIPS gave it to me.

16 Q. Which wire -- you've got a whole bunch of
17 numbers there. Which wire is it that specifically
18 relates to your case?

19 A. Four gauge solid.

20 Q. Is that the second one down?

21 A. Correct.

22 Q. Okay. And that's the wire that you talk about

1 in one of your rebuttal questions that indicates the
2 wire has a load of 163 amps. Is that right?

3 A. As far as the triplex, yes.

4 MR. REESE: Okay.

5 JUDGE ALBERS: Okay. No objections still?

6 MR. KAUFMANN: No objection, Your Honor.

7 MR. REESE: I got one right. That's good.

8 JUDGE ALBERS: All right. Hearing no
9 objection, then the prefiled Complainant's direct
10 testimony and rebuttal testimony along with the
11 attachments we've identified are admitted into the
12 record.

13 Do you tender your witness for cross?

14 MR. REESE: Yes, Judge.

15 JUDGE ALBERS: We will mark the Complainant's
16 direct testimony as Complainant's Exhibit 1 and the
17 rebuttal as Complainant's Exhibit 2.

18 (Whereupon Complainant's Exhibits 1 and 2
19 were marked for identification and
20 received into evidence.)

21 Mr. Kaufmann.

22 MR. KAUFMANN: Thank you, Your Honor.

1 CROSS EXAMINATION

2 BY MR. KAUFMANN:

3 Q. First of all, Mr. Shehadeh, do you have in
4 front of you your rebuttal testimony?

5 A. No, I do not.

6 MR. KAUFMANN: Okay. What I'd like to do,
7 counsel, --8 MR. REESE: Sure. Yeah, go ahead and give him
9 a copy. I have no objection.10 MR. KAUFMANN: Your Honor, may I approach the
11 bench and provide Mr. Shehadeh with a copy of his
12 rebuttal testimony so we're on the same page?13 Q. I think, Mr. Shehadeh, what you did was take
14 Mr. Derber's direct examination and number some of
15 the questions and then put in information which you
16 believed to be in rebuttal to statements made by
17 Mr. Derber. Is that correct?

18 A. Yes, it is.

19 Q. All right. Looking at your rebuttal testimony,
20 question number 5, your rebuttal relates to the
21 Christian County lawsuit filed initially by your
22 mother. Am I correct?

1 A. Yes.

2 Q. And so the record is complete, Judge Spears in
3 that case at a bench trial did rule against your
4 mother. Am I correct?

5 A. Correct.

6 Q. All right. Go, if you would, to question
7 number 6, Mr. Shehadeh. There's some discussion
8 there about the disconnections in July --

9 MR. REESE: I'm going to object to this as not
10 being relevant. Even though we rebutted it, I still
11 don't think it's relevant to this issue about
12 whether or not the voltage is 113 at this point, and
13 that's the issue here, whether or not the voltage
14 went under 113 volts, not what he did in July or
15 some previous lawsuit. The only reason I rebutted
16 it was -- I don't know why I rebutted it, but I
17 object to it to the extent that it's not relevant to
18 this case.

19 JUDGE ALBERS: Well, he did include it in his
20 rebuttal testimony.

21 MR. REESE: Yeah. I mean I don't think they
22 had any addition with regard to what Judge Spears

1 did or not. I still think it's irrelevant. It's
2 just wasting time.

3 JUDGE ALBERS: Are you stating you just offered
4 irrelevant testimony into the record?

5 MR. REESE: What's that, sir?

6 JUDGE ALBERS: Are you stating you just offered
7 irrelevant testimony into the record?

8 MR. REESE: Yeah, I probably did. He didn't --
9 nobody objected to it though, and I have an
10 objection to my own irrelevant testimony plus
11 irrelevant testimony of any kind or nature that
12 might cause unjust delay or waste our time.

13 JUDGE ALBERS: Okay. I'm going to overrule
14 your objection.

15 MR. REESE: Okay.

16 MR. KAUFMANN:

17 Q. Mr. Shehadeh, regarding those disconnections in
18 July of 2001, do you recall that it was CIPS'
19 position that those disconnections were done because
20 of safety hazards which you created?

21 A. That's what you stated, yes.

22 Q. Do you recall that CIPS had even asked the

1 Taylorville Police Department to be present at the
2 time of two of those disconnections?

3 MR. REESE: I don't see how this is relevant at
4 all as to whether or not his amperage is -- or
5 voltage is 113 in December. What he had to do with
6 the Taylorville Police Department and CIPS coming to
7 his property and turning his power off is not
8 relevant to this at all, interesting perhaps, but
9 not relevant, not probative.

10 JUDGE ALBERS: Mr. Kaufmann.

11 MR. KAUFMANN: I think it's background, Your
12 Honor, and it shows, frankly, the good faith of CIPS
13 in attempting to avoid any civil disturbance by,
14 frankly, having the police department there when it
15 was trying to resolve a very hazardous condition on
16 Mr. Shehadeh's property.

17 MR. REESE: I don't think that relates to
18 whether or not the voltage was 113 or not either.
19 Good faith isn't really relevant here. It's a
20 matter of code.

21 JUDGE ALBERS: We'll, if they're laying some
22 background for some questions, I'll allow it.

1 MR. KAUFMANN: Okay.

2 A. Yes.

3 Q. All right. Let me show you -- and, by the way,
4 for the record, Your Honor, I have provided
5 Mr. Reese in advance a copy of all of the exhibits
6 that I intended to utilize, and actually there
7 before you on the table is a complete list of all of
8 the exhibits as well.

9 JUDGE ALBERS: Those are for me, huh?

10 (Laughter)

11 MR. KAUFMANN:

12 Q. Exhibit 5, Mr. Shehadeh, is a letter dated July
13 23, 2001, from me to you. Am I correct?

14 A. Yes.

15 Q. And the letter will speak for itself, but
16 basically it explains the reasons for the
17 disconnections, and CIPS is agreeing to reconnect
18 the electricity at the home if you agree to do
19 certain things. Am I correct?

20 A. Yes.

21 MR. KAUFMANN: I'd move for admission, Your
22 Honor, of Exhibit 5.

1 MR. REESE: I object to that as not being
2 relevant. The letter sent by CIPS' attorney to my
3 client I don't think -- regarding some instance in
4 July is not relevant to whether or not they provided
5 13 [sic] volts of service in December.

6 JUDGE ALBERS: Let me dig out Exhibit 5 here
7 before I rule on that.

8 MR. KAUFMANN: I did put them in order.

9 JUDGE ALBERS: I found it. I just needed to
10 dig down that far.

11 MR. KAUFMANN: Okay.

12 (Pause in the proceedings.)

13 JUDGE ALBERS: Do you have any response to his
14 claim it's not relevant?

15 MR. KAUFMANN: Again, Your Honor, I don't
16 intend to further belabor the point, but it does
17 show background, and I don't think you can look at
18 the voltage situation here entirely in a vacuum. I
19 also think it goes to impeach the credibility of the
20 witness and also goes to motivations for the instant
21 proceeding.

22 MR. REESE: And I'd respond, I think it's just

1 whether or not the current went under 113. This is
2 a code. This isn't the common law theory here.
3 It's either you violated the code or you didn't
4 violate the code. Whether or not CIPS violated the
5 tenets or the standards of the ICC here is the
6 issue, not whether or not my client is a nice
7 fellow, bad fellow, or he -- anything of that nature
8 doesn't really affect this case. His motivation for
9 filing this complaint is stated clearly on his
10 complaint. It was under 113 volts. Other than
11 that, it's just trying to make my client out to look
12 like a whiner or something. That's all they're
13 trying to do.

14 JUDGE ALBERS: Well, I'm going to reserve
15 ruling on this right now.

16 Do you have any further questions about this
17 particular document?

18 MR. KAUFMANN: I don't, Your Honor.

19 JUDGE ALBERS: Okay.

20 MR. KAUFMANN:

21 Q. Mr. Shehadeh, moving on, in July of 2001 there
22 was, of course, a dispute between yourself and CIPS

1 regarding those disconnections as well as other
2 issues. Am I correct?

3 A. Yes.

4 Q. And do you recall that on August 8th of 2001 an
5 agreement was reached between CIPS and yourself and
6 your mother resolving all disputes which existed as
7 of that date? That would be August 8th of 2001.

8 MR. REESE: I object to that as not being
9 relevant, and even if it was, I think they've --
10 they've already given it into evidence, put it on
11 the Internet. The settlement agreement strictly
12 says not to put it in public unless the state
13 requires it. I've seen nothing in here that -- the
14 Commission certainly hasn't required them to release
15 the settlement document or even to talk about the
16 settlement. So not only have they violated the
17 settlement agreement, it's not relevant to 13 [sic]
18 volts. Its a whole different case. That was a case
19 regarding detrimental reliance on contracts. If you
20 want to really get involved in it, if we have to, I
21 guess we can go on and on and talk about the case
22 that we had. I don't think that has any relevance

1 here.

2 MR. KAUFMANN: I don't intend to belabor it
3 further, Your Honor. I was just pointing out again
4 by way of background that as of August 8th of 2001,
5 we frankly felt all issues as it related to
6 Mr. Shehadeh had been resolved.

7 JUDGE ALBERS: Okay. I'll allow the question
8 right now. At this point no one moved to admit the
9 settlement agreement, and if you want to renew your
10 objection when it's offered, feel free.

11 MR. REESE: That's fine. I'd just like to keep
12 an open objection to anything that doesn't relate to
13 13 [sic] volts.

14 JUDGE ALBERS: You go ahead and object though
15 if you think you have an objection. I'm not going
16 to assume that you're objecting to something.

17 MR. REESE: I'll have to object to every
18 question until he gets off the issue. I don't want
19 to do it constantly. Okay. Whatever.

20 MR. KAUFMANN: I don't intend to offer the
21 document itself, Your Honor. I just wanted to have
22 him respond to that question.

1 JUDGE ALBERS: Okay.

2 MR. KAUFMANN: And, if I'm not mistaken, there
3 is a question pending, and I can rephrase it quicker
4 than you can find it.

5 Q. Is it true that as of August 8th of 2001,
6 pursuant to an agreement between CIPS and yourself,
7 that all issues that existed as of that point had
8 been resolved, at least as far as you knew?

9 A. Yes.

10 Q. Okay. Question number 12, Mr. Shehadeh,
11 concerns a discussion with Mr. Derber at his office.
12 First of all, this discussion occurred after the
13 date of the agreement of August 8th of 2000. Am I
14 correct?

15 A. Yes.

16 Q. Further, in your rebuttal testimony you make
17 reference to a neutral cable. Correct?

18 A. Yes.

19 Q. Now would you agree with me that this is CIPS'
20 equipment, that being the neutral cable?

21 A. I'm not for sure.

22 Q. Well, it's not yours, is it?

1 A. Part of it is, yes.

2 Q. The neutral cable is located on which side of
3 the electric meter? Your side or the CIPS side?

4 A. The CIPS side.

5 Q. All right. Now, you reference in question 12 a
6 shock that you received from that neutral cable. Am
7 I correct?

8 A. Yes.

9 Q. The shock to you then was a result of your
10 coming into contact with that neutral cable.
11 Correct?

12 A. Accidentally, yes.

13 Q. In your rebuttal testimony to question 12 you
14 state: "Upon further investigation, I discovered a
15 potential difference of about 30 volts between the
16 neutral and the ground." Did you make that
17 statement?

18 A. Yes.

19 Q. Isn't it true that this alleged fact has
20 nothing to do with the voltage delivered to your
21 house?

22 A. I'm not an expert in the field of electricity

1 so I have no idea. I know that it was something
2 that was out of the ordinary so I did tell
3 Mr. Derber.

4 MR. KAUFMANN: Would you mark that in the
5 transcript for us, that last answer? Thank you.

6 Q. Question Number 15. I want to talk to you
7 about what we believe to be an incorrect assumption
8 in your testimony. According to your calculation,
9 your Christmas lights use 120 amps at 120 volts. Am
10 I correct?

11 A. Correct.

12 Q. Isn't it true that the service is provided to
13 your home at 120 /240 volts, meaning that you have
14 two 120-volt wires at your home?

15 A. Yes.

16 Q. If that is true, then isn't it more accurate to
17 say that you're using 60 amps when all your
18 Christmas lights are on at 240 volts instead of 120
19 amps at 120 volts?

20 A. No, because -- do you want me to elaborate on
21 why?

22 Q. Not at this time.

1 A. Okay.

2 Q. If it's true that 60 amps are being utilized,
3 that would be 30 percent of the 200 ampacity
4 provided to your home by CIPS. Am I correct?

5 A. Approximately, yes.

6 Q. Turn, if you would, to question 16. You state:
7 "There are many occasions recorded by CIPS' volt
8 meter that showed the voltage below 113 volts when
9 the heaters were not operational. During the
10 weekdays the heaters were not used because I was at
11 school and did not need to heat the garage." Did
12 you make that statement?

13 A. Yes, I did.

14 Q. In the process of responding to discovery
15 requests, CIPS through me provided a substantial
16 number of documents which were actually recordings
17 from the recorder.

18 A. Yes.

19 Q. Which was placed on the wires at your house.

20 Let me show you Defendant's Exhibit Number 2 as
21 well as Defendant's -- it actually ought to be
22 Respondent's Exhibit Number 3. I'll represent to

1 the court that those are true and accurate copies of
2 our responses to the two data requests from the
3 Complainant, and we wanted those, Your Honor, to be
4 admitted into evidence?

5 MR. REESE: No objection.

6 JUDGE ALBERS: I'm sorry. I didn't hear you.

7 MR. REESE: No objection.

8 JUDGE ALBERS: And that was Exhibit 2 and --

9 MR. KAUFMANN: 2 and 3, Your Honor.

10 JUDGE ALBERS: And 3. Let me find that one.

11 Could you just note for the record what these
12 documents depict?

13 MR. KAUFMANN: Those are, Your Honor, responses
14 to the Complainant's two separate data requests, and
15 for the most part they include responses -- or
16 actually recordings of the recorder placed on the
17 wires at the Shehadeh residence.

18 JUDGE ALBERS: Hearing no objection, then they
19 are admitted.

20 (Whereupon Defendant's Exhibits 2
21 and 3 were received into evidence.)

22

1 MR. KAUFMANN:

2 Q. Regarding this statement from question number
3 16, Mr. Shehadeh, that I read to you, we frankly
4 cannot find data within Exhibits 2 and 3 to support
5 that statement that you made in your testimony. Can
6 you point us to that information?

7 A. I have highlighted documents out of this. I
8 sorted through them already. Lindsay has them
9 there.

10 Q. Okay.

11 A. I attached the specific times with the
12 testimony.

13 MR. KAUFMANN: In fairness, Your Honor, what
14 I'd like to do is allow Mr. Shehadeh to point out
15 what he believes are instances from the recordings
16 which support his position, and for purposes of
17 saving time and getting, you know, to the bottom
18 line as quickly as we can, I don't have a problem
19 with Mr. Shehadeh sort of refreshing his
20 recollection by looking at some information that he
21 had looked at before. We're not going to put this
22 into evidence, but I think it will help the process

1 if we do that.

2 Q. Prior to the hearing today, Mr. Shehadeh, did
3 you review records to take a look at readings which
4 support your rebuttal testimony?

5 A. Yes, I did.

6 JUDGE ALBERS: If I can interject for a moment.

7 MR. KAUFMANN: Sure.

8 JUDGE ALBERS: As long as we have this document
9 at hand, I was going to ask him to identify what the
10 individual columns represent, so if he could do that
11 while he's answering your question, I'd appreciate
12 it.

13 MR. KAUFMANN: Do you have, Your Honor, a copy
14 of what --

15 JUDGE ALBERS: I have what he has attached to
16 his direct testimony, yes.

17 MR. KAUFMANN: Okay. So just so if I could
18 just clarify this.

19 Q. Mr. Shehadeh, is what I've shown you actually a
20 copy of what was attached to your initial direct
21 testimony?

22 A. Yes, it is.

1 Q. All right. And the additions, if you will, to
2 this document are some highlightings that you placed
3 here?

4 A. Yes.

5 Q. Okay. All right. So I think the Hearing
6 Examiner wanted to ask you to explain the columns
7 that you see on that document.

8 A. Okay. There's six columns, and the first three
9 are one of the legs. There's two legs, two hot
10 legs, and the right one is the other leg. Now the
11 column -- the first and fourth columns are the
12 lowest voltage recorded during that two-minute
13 interval, the second and fifth columns are the
14 average, and the third and the sixth are the peak,
15 the high point of the voltage recorded between those
16 two minutes, and each voltage page has a
17 corresponding current page marked "i" that tell us
18 what the current was at the time that voltage was
19 recorded.

20 MR. KAUFMANN: Were there any further questions
21 as to what those meant, Your Honor?

22 JUDGE ALBERS: And on the current page, did you

1 --

2 A. It's the same thing, the low, the average, and
3 the high, but it corresponds with the previous
4 voltage page.

5 JUDGE ALBERS: Okay. Thank you.

6 MR. KAUFMANN:

7 Q. So we're perfectly clear, Mr. Shehadeh, the
8 exhibits which you have in front of you right now
9 which have been highlighted and which were attached
10 to your initial direct examination in this case,
11 those are the pages from the CIPS volt meter which
12 form the basis of your complaint against CIPS that
13 it violated some rules or regulations insofar as the
14 113 volt requirement is concerned?

15 A. That reaffirmed my thoughts that it was -- I
16 recorded the voltage on my own first using my own
17 volt meter at my service disconnect, and later I
18 requested this information that just reaffirmed my
19 suspicions.

20 Q. And these documents are the basis of your
21 complaint against CIPS. Am I correct?

22 A. Part of it, yes.

1 Q. Okay. Well, in submitting your direct
2 examination relating to your complaint against CIPS,
3 these are the documents out of all of the documents
4 that you've been provided with which you believe
5 formed the basis of your complaint against CIPS. Am
6 I right?

7 A. As well as the manufacturers' specifications
8 for the wires and the transformer and the fuses.

9 Q. We'll talk about those in a moment.

10 A. Okay.

11 Q. But at least as far as --

12 A. For the most part, yes, to show that it dropped
13 below 113.

14 Q. For the readings which you believe demonstrate
15 that CIPS somehow violated rules, these are the
16 documents you're relying upon.

17 A. Yes.

18 Q. Now turn, if you would, to question number 17.
19 I want to show you Defendant's Exhibit Number 7
20 which is a copy of a response to a data request
21 which you provided to CIPS. Does that appear to be
22 the case?

1 A. Yes.

2 Q. All right. And on the third page there are
3 apparently some measurements that you did of various
4 appliances within your home. Am I correct?

5 A. At the request of CIPS, yes.

6 Q. All right. And that was data that was supplied
7 by you. In other words, you didn't have an
8 independent person come in and take the measurements
9 of the electrical usage of those appliances. Am I
10 correct?

11 A. Yes, you're correct.

12 Q. All right. You state in your response to
13 question number 17, and I'm leaving some words out
14 here, "It is obvious that the operation of certain
15 combinations of these appliances in addition to the
16 lights would bring the total current consumption up
17 to a level that will create a voltage drop below
18 113." Have I read that correctly?

19 A. Where are you at? Question 19?

20 MR. REESE: 17.

21 Q. 17.

22 A. 17. Yes, that's correct.

1 Q. Have you added the amps used by all of the
2 appliances except the auxiliary heaters as well as
3 the Christmas lights? In other words, have you
4 added together all of the amps, including the
5 Christmas lights, but excluding the auxiliary
6 heaters?

7 A. I have at some point, yes.

8 Q. If you exclude those auxiliary heaters, don't
9 the amps add up to 186?

10 A. Well, yes, if you're running the air
11 conditioning and heater at the same time, but.

12 Q. No. Excluding the auxiliary heaters --

13 A. The central heating. I've got space heaters,
14 heaters for my garage, and then the central heating.

15 Q. When you add all of the figures here on this
16 page which you supplied other than the auxiliary
17 heaters, the 40 auxiliary heaters that you
18 mentioned, don't you come up with a number of amps
19 of 186?

20 A. That sounds about right.

21 Q. All right. And that's lower than 200.

22 A. Yes.

1 Q. As far as those auxiliary heaters are
2 concerned, as we know from prior testimony that
3 you've provided, those auxiliary heaters are
4 actually elements of a grain dryer. Am I correct?

5 A. I believe so, yes.

6 Q. Elements of a grain dryer which you don't own.
7 Correct?

8 A. Correct.

9 Q. And which are loaned to you. Right?

10 A. Correct.

11 Q. And isn't it true that as to those auxiliary
12 heaters which are the grain drying elements, that
13 you used those to heat your garage so that when your
14 Christmas light display is out there, you can stay
15 in the garage and watch for fans and vandals. Am I
16 right?

17 A. Yes.

18 MR. KAUFMANN: Your Honor, I'd like to move for
19 the admission of Defendant's Exhibit 7.

20 JUDGE ALBERS: Okay. Any objection?

21 MR. REESE: What was 7 there?

22 MR. KAUFMANN: That was his response to the

1 data request.

2 MR. REESE: Oh, I have no objection.

3 JUDGE ALBERS: Exhibit 7 is admitted.

4 (Whereupon Defendant's Exhibit 7 was
5 received into evidence.)

6 MR. KAUFMANN:

7 Q. Let's go to question number 19, Mr. Shehadeh.

8 Let me show you Exhibit 8, which is a photograph of
9 one of the grain drying elements. Am I correct?

10 A. Yes.

11 Q. And, as a matter of fact, you brought with you
12 here today to the Commission an actual grain drying
13 element. Correct?

14 A. Yes.

15 MR. KAUFMANN: I'd move for admission of
16 Defendant's Exhibit 8, Your Honor.

17 MR. REESE: No objection.

18 JUDGE ALBERS: Exhibit 8 is admitted.

19 (Whereupon Defendant's Exhibit 8
20 was received into evidence.)

21 MR. KAUFMANN:

22 Q. Now isn't it your testimony, Mr. Shehadeh, that

1 the grain drying element is 208 volt rated?

2 A. Yes.

3 Q. But you are using that element and those
4 elements to heat a garage, utilizing 200 volts to
5 operate it. Am I correct? 240 volts to operate it.

6 A. Yes.

7 Q. So aren't you therefore exceeding the ratings
8 of those elements?

9 A. No, because when I had the heaters and the
10 lights on, the voltage dropped to a level low enough
11 where it was relatively close to 208 volts.

12 Q. But, obviously, 240 volts is higher than 208
13 volts.

14 A. Yes, but not by much.

15 Q. Regarding question number 20, when asked some
16 questions about your following testimony, "The
17 charts clearly show a number of instances where the
18 voltage was at or below 117 volts for up to an hour
19 and at times when the heaters were not operational."

20 A. Which question are you on?

21 Q. Twenty.

22 A. Twenty. Yes.

1 Q. Again referring to Exhibits 2 and 3, reading
2 responses to data requests supplied by CIPS, we
3 don't see that that is the case based upon the data.

4 MR. REESE: I object to the question. Oh, go
5 ahead.

6 Q. Where is it within those documents that you see
7 documentation of the testimony that you've provided?

8 A. Well, the Illinois Commerce Commission rules
9 require that a voltage survey be taken at the
10 customer's point of entry which would be the line
11 side of the meter. Your recorder was placed on the
12 street side of the triplex, so the resistive loss in
13 the triplex has to be factored in as well. The
14 triplex is rated for 160 amps, and when I'm using
15 about that or more, there is a voltage drop in the
16 triplex that also has to be included. So I figured
17 it to be about 4 volts. So whatever your recorder
18 measured, the voltage on my end was actually 4 volts
19 less, 3 to 4 volts less.

20 Q. Where in Exhibits 2 and 3 do you see that any
21 violations occurred by CIPS?

22 A. Do you want the specific times that the voltage

1 was there?

2 Q. Well, let me ask you it this way just to
3 expedite your examination. We talked before about
4 the exhibit to your initial direct testimony which
5 are already in the record.

6 A. Uh-huh.

7 Q. Is there information contained within those
8 documents to support the statement that you just
9 made in question 20?

10 A. I believe there is, if you'll give me a chance
11 to find it.

12 MR. REESE: For simplicity's sake, are you
13 using the one that's yellow-lined?

14 MR. KAUFMANN: Sure.

15 MR. REESE: You can use the yellow-lined one,
16 Jamal, if you want. It would be faster probably.

17 MR. KAUFMANN: Let me help move along the
18 process, if I can, Your Honor.

19 Q. Earlier we took a look at a copy of the
20 documents which were attached to your direct
21 examination, and you had already highlighted some
22 information here. Am I right?

1 A. Yes.

2 Q. Are documents which are responsive to my last
3 question contained within this exhibit?

4 A. Some of them, yes.

5 Q. Okay. Why don't you just for purposes of the
6 record identify, you know, by time and date records
7 which you believe support the statement that I read
8 to you just a moment ago, and I would be happy to
9 read it to you again.

10 A. November 22nd from 11:06 a.m. to 11:32 a.m..

11 Q. Why don't you give me about three of them.

12 A. Three of them? Okay.

13 JUDGE ALBERS: Is the first page suppose to be
14 November 22nd?

15 MR. KAUFMAN: And they are Bates numbered, Your
16 Honor, in the lower right-hand corner. I think he
17 was reading from a Bates number 11.

18 THE WITNESS: It gives the time.

19 JUDGE ALBERS: Okay. Thank you.

20 A. On December 8th from 7:02 p.m. --

21 Q. One second, please. And that's on a document
22 with a Bates number 448.

1 A. Until 9:05 p.m.

2 Q. And that's page 449. I want you to give me one
3 more.

4 A. And then from 9:09 p.m. on that same date until
5 11:05.

6 MR. KAUFMANN: The documents that he was
7 looking at have the numbers 449 and 557 on them.

8 JUDGE ALBERS: Okay. Thank you.

9 MR. KAUFMANN:

10 Q. Let's go to question number 21, Mr. Shehadeh.
11 Do you have that in front of you?

12 A. Yes.

13 Q. In your rebuttal testimony you state that
14 "According to CIPS' specification manual, Sections
15 8.01, 8.02, 8.03, and 8.04 on file with the
16 Commission, the heaters I used cannot be considered
17 commercial."

18 I have marked as Exhibit 9 --

19 MR. REESE: I'd object. I think it's a
20 question of law, not a question of fact, unless
21 there's some facts that you're trying to bring out
22 here rather than arguing the law at this point.

1 JUDGE ALBERS: I don't think I've heard a
2 question yet though, so.

3 MR. KAUFMANN: In looking at Exhibit 9, I just
4 want to point out what the document says, not
5 arguing a point of law.

6 Q. In Exhibit 9, all of those documents that you
7 referenced, where does it say that heaters can or
8 cannot be considered commercial?

9 A. 8.03.

10 Q. Does 8.03 use the word heaters?

11 A. It uses miscellaneous appliances.

12 Q. Okay. And that's what you rely upon for your
13 testimony about heaters cannot be considered
14 commercial. Am I right?

15 A. They're not specifically mentioned as
16 appliances that cause problems like welders and
17 X-ray machines and elevators, so yes.

18 Q. They're not specifically mentioned, are they?

19 A. They're excluded from items that can be
20 considered commercial.

21 Q. Look at 8.01(a). In your testimony you make
22 reference to hoists, elevators, welding machines, et

1 cetera. am I correct?

2 A. Yes.

3 Q. Does not that sentence also make reference to
4 "other equipment where the use of electricity is
5 intermittent or the load fluctuates rapidly shall be
6 installed and used in such manner that they will not
7 adversely affect voltage regulation or impair the
8 company's service to other customers"?

9 A. Yes. The heaters were not run intermittently
10 and did not create voltage fluctuation.

11 MR. KAUFMANN: Move to strike the last response
12 as not being responsive, Your Honor.

13 JUDGE ALBERS: Sustained.

14 A. I answered his question.

15 MR. REESE: Was there an answer to the question
16 or was there a question?

17 MR. KAUFMANN: The question was doesn't it also
18 state the following, and he answered yes.

19 Q. Now, would you agree with me that turning on
20 and off the heaters in the garage would cause the
21 electricity to fluctuate rapidly?

22 A. It depends on the interval at which they were

1 turned on and off. The way I was using them, no.

2 Q. In the last sentence of paragraph 8.01(a) it
3 states: "In all cases, the customer must obtain
4 company approved before using such equipment." Have
5 I read that correctly?

6 A. Yes.

7 Q. Okay. Did you obtain permission or approval of
8 CIPS to use those heaters before using that
9 equipment?

10 A. I didn't need to because they're not qualified.
11 They're not mentioned in here. They don't qualify
12 as something that causes problems.

13 Q. Now, in answer to question number 21 -- before
14 I forget, Your Honor, I'd move for admission of
15 Defendant's Exhibit 9.

16 MR. REESE: Which one is that one? Oh, yeah.

17 I don't have a problem with that.

18 JUDGE ALBERS: No objection?

19 MR. REESE: No objection.

20 JUDGE ALBERS: All right. Defendant's Exhibit

21 9 is admitted.

22 (Whereupon Defendant's Exhibit 9 was

1 received into evidence.)

2 Q. In your testimony relating to question number
3 21, you discuss large inrush currents and
4 specifically state that "lights and heaters, on the
5 other hand, are purely resistive load and do not
6 have an initial current value greater than their
7 continuous run ampacity and therefore cannot create
8 inrush currents." Did I read that correctly?

9 A. Yes.

10 Q. Let me show you Exhibit 10. This is a document
11 that was provided in discovery in this case. Am I
12 correct?

13 A. Uh-huh.

14 Q. If you'd look at the top graph, and do you see
15 the current from your lighting display coming on
16 each evening for several hours and then turning off?

17 A. Yes.

18 Q. Would you estimate, using that scale along the
19 right-hand side of the sheet, the amount of current
20 shown while the lights are running? And wouldn't
21 that be approximately 40 amps?

22 A. That's the voltage, isn't it? I don't

1 understand what...

2 Q. Can you answer the question?

3 A. No. I don't know.

4 Q. Can you look at that graph, and the point where
5 you turned on the lights, do you see the spike of
6 current each time the lights are turned on?

7 A. I honestly don't know what I'm looking at
8 really.

9 Q. You can't read it?

10 A. No.

11 Q. All right. So you would not be able to
12 compare, for instance, the amount of current shown
13 while the lights are running, which we believe the
14 Exhibit 10 to be 40, and you can't read that it
15 spikes up to approximately 80 when you turn your
16 lights on?

17 A. I have no way of telling that that's the
18 lights.

19 Q. Exhibit 10 is a document that was supplied to
20 you in discovery?

21 A. Yes, it is.

22 MR. KAUFMANN: We'd move for admission of

1 Defendant's Exhibit 10, Your Honor.

2 JUDGE ALBERS: Is there any objection?

3 MR. REESE: I don't know what it is either.

4 Oh, I see. What is it? It hasn't been identified
5 as to what this thing is. I'd rather have somebody
6 -- maybe Mr. Derber can identify what it is better
7 so I can really know how to object to it.

8 JUDGE ALBERS: I wouldn't mind hearing more
9 about it myself, so.

10 MR. KAUFMANN: Perhaps Mr. Derber will have an
11 opportunity and would love to have an opportunity to
12 explain what Exhibit 10 shows.

13 JUDGE ALBERS: Let me ask you this too. Is
14 this also among either 2 or 3, Exhibit 2 or 3?

15 MR. KAUFMANN: Yes, Your Honor. It's just for
16 ease of reference we pulled that.

17 JUDGE ALBERS: Highlighting?

18 MR. KAUFMANN: Yes, pulled that from those
19 documents.

20 JUDGE ALBERS: Yeah, I'm going to hold off on
21 admitting that until we know for sure what it's
22 describing.

1 MR. KAUFMANN: Thank you.

2 Q. Mr. Shehadeh, are you aware of any complaints
3 by customers served by the same transformer as your
4 home?

5 A. Yes.

6 Q. Do you remember when that happened?

7 A. No.

8 Q. Would you disagree with the date of Monday,
9 November 27th?

10 A. I don't know when.

11 Q. Do you remember what you were doing the weekend
12 prior to November 27th?

13 A. I don't recall.

14 Q. What did CIPS do, if you know, when it received
15 notice of this complaint?

16 A. I was made aware that someone had complained in
17 my phone conversation with Mr. Derber and
18 Mr. France.

19 Q. Via contact by CIPS to you. Am I correct?

20 A. I believe so, yes.

21 Q. All right. And did you cease as of that time
22 from doing what you were doing that caused the

1 complaints by other CIPS customers?

2 A. I had ceased operating the majority of those
3 heaters prior to that complaint being filed. The
4 first conversation I had with Mr. Derber and
5 Mr. France they made me aware of the problem that
6 the heaters may potentially cause, and I
7 disconnected most of them except for the amount that
8 I would require to heat my garage.

9 Q. Were there complaints thereafter?

10 A. That complaint came after I disconnected the
11 heater, yes.

12 Q. Turn, if you would, to question 23, and it
13 states: "CIPS has refused to provide me with this
14 service." Am I right? It begins the third line.
15 It says, "They --

16 Q. Oh, okay.

17 Q. I believe that refers to CIPS.

18 MR. REESE: Is that question 23?

19 MR. KAUFMANN: Yes.

20 Q. "... have refused to provide me with this
21 service." Am I correct?

22 A. Yes.

1 Q. In reading that?

2 A. Uh-huh.

3 Q. Wouldn't it be more accurate to say that CIPS
4 will provide it to you if you pay for it?

5 MR. REESE: Objection. That's just
6 argumentative. It doesn't really relate to anything
7 unless they built some foundation that it relates to
8 dropping his service below 13 volts.

9 MR. KAUFMANN: Let me just ask it perhaps in a
10 different way, Your Honor, to I think prevent any
11 objection.

12 Q. Isn't it true that CIPS has not refused under
13 any circumstances to provide you with the service
14 that you want?

15 A. Yes, they have.

16 Q. Under any circumstances.

17 A. They told me I have to pay an outrageous amount
18 of money for it.

19 Q. Look, if you would, at Exhibit 11.

20 And, again, Exhibit 11 is within exhibit either
21 2 or 3, Your Honor.

22 Q. Now that was provided to you in discovery?

1 A. Yes, it was.

2 Q. And you used that document to support your view
3 that "a triplex that serves my residence is also
4 overloaded." Am I correct?

5 A. Yes.

6 Q. And you make reference to a number I believe in
7 your testimony of 163. Am I right?

8 A. Yes.

9 Q. Look at your testimony there.

10 A. Yes.

11 Q. Actually, that's incorrect, isn't it? Didn't
12 you mean to say exhibit -- it should be 162?

13 A. Yes, 162.

14 Q. All right.

15 A. I'm sorry. I misread the 2. I mistook it for
16 a 3.

17 Q. All right.

18 JUDGE ALBERS: Where actually are you looking
19 at?

20 MR. KAUFMANN: It's easier to show you, Judge.

21 JUDGE ALBERS: Okay. The third line, the
22 second box?

1 MR. KAUFMANN: Yes.

2 JUDGE ALBERS: Okay. Thank you.

3 MR. KAUFMAN:

4 Q. And again, looking at Exhibit 11, note number 1
5 to that exhibit makes reference to current ratings
6 calculated with the following parameters and
7 includes an ambient temperature of 40 degrees
8 Celsius. Correct?

9 A. Yes.

10 Q. Which is 104 degrees Fahrenheit, if you know?

11 A. Yes.

12 Q. Under the column -- and, by the way, we're at
13 the lower table that says "Cross-Linked Poly
14 Multiplex Cable". Am I right?

15 A. Yes.

16 Q. There's a column 100 degrees centigrade. Am I
17 right?

18 A. Yes.

19 Q. Which is what? Something like 212 degrees
20 Fahrenheit?

21 A. Yes.

22 Q. Okay. And this is for, by the way, a four-hour

1 emergency rating. Am I right?

2 A. Yes.

3 Q. So that this figure of 162 that you made
4 reference to and the other information that you're
5 relying upon relates to basically, you know, as hot
6 as it might get here in the middle of the summer.

7 A. Yes.

8 Q. Okay. As opposed to Christmas time. Is it
9 hotter in the summer or at Christmas?

10 A. Usually at Christmas time it's cooler, so.

11 MR. KAUFMANN: Move for admission of Exhibit
12 11, Your Honor.

13 MR. REESE: No objection.

14 JUDGE ALBERS: Exhibit 11 is admitted.

15 (Whereupon Defendant's Exhibit 11
16 was received into evidence.)

17 MR. KAUFMANN:

18 Q. Finally, at the bottom of your response to
19 question number 23 you state: "The best way to
20 resolve this dangerous situation is to upgrade my
21 service to 400 amps, replace the transformer with a
22 larger one, and replace the line wire and triplex

1 with cables rated for the current that will be
2 loaded on them." Am I right?

3 A. Correct.

4 Q. Another way to resolve this "dangerous
5 situation" as you put it is to stop using the grain
6 dryer elements in your garage. Wouldn't you agree
7 with that?

8 A. No.

9 Q. Wouldn't you also agree with me that another
10 way to resolve this "dangerous condition" is for you
11 to pay CIPS to upgrade the service in the way that
12 you would like it?

13 A. Yes, that would.

14 MR. KAUFMANN: Your Honor, I don't have any
15 further questions for Mr. Shehadeh, and I just want
16 to make sure that I've -- with the exception of the
17 rulings that you've reserved, I believe I have moved
18 for admission of all the exhibits I intend to use,
19 although I think it would be appropriate, Your
20 Honor, so that the record is complete, I'd like to
21 move for the admission of the entire discovery
22 deposition of Mr. Shehadeh which I've marked as

1 Exhibit 4 together with the exhibits which were
2 introduced at his deposition. At the request of the
3 court, a copy of that discovery deposition has
4 already been supplied to the Commission. I do think
5 it would be appropriate that the discovery
6 deposition and the exhibits to that come in to the
7 record, and I would move for the admission of
8 Exhibit 4 which you have before you.

9 JUDGE ALBERS: Mr. Reese?

10 MR. REESE: Well, with regard to Exhibit 4,
11 certainly if it's admitted, then I would like to be
12 able to cross-examine Exhibit 4 and all the issues
13 that are contained in Exhibit 4 because if that's
14 going to be part of my client's basic testimony,
15 then I think that expands his testimony
16 tremendously. So if the ruling is that -- I'll
17 agree to it certainly being admitted into evidence,
18 but then I certainly have a right to cross-examine
19 any questions that were dealt with in that
20 deposition. That would be the same as testimony at
21 this point if you're going to admit it.

22 JUDGE ALBERS: Well, my concern is that it's a

1 discovery deposition as opposed to an evidentiary
2 deposition.

3 MR. REESE: That's why I think -- I mean I
4 don't have any objection to it being admitted as
5 long as I can cross it, so I'm not objecting to it
6 per se as long as I can -- it then opens Pandora's
7 box for me to -- allow me to obviously ask my client
8 a lot more questions. It expands his testimony
9 greatly. So that's my caveat. If that's admitted,
10 certainly I think I have a right then to cross on
11 it.

12 MR. KAUFMANN: I don't think the two
13 necessarily follow, Your Honor. I think it ought to
14 come in for what it's worth so that as much
15 information is available to the Commission as
16 possible. I don't think it opens the door to
17 everything.

18 MR. REESE: I certainly don't think that CIPS
19 has really held the position in this case to whether
20 it wanted the Commission to have as much information
21 as possible, as is indicated by their earlier
22 objections, so I guess if we're going to -- if

1 you're going to let it in, I think I ought to have a
2 right to ask questions that relate to all this
3 deposition. If it's part of the evidence, I'm
4 allowed then to use that in my direct -- in my
5 examination.

6 MR. KAUFMANN: And I object to the statement
7 about us trying to not supply the Commission with
8 what information it needs to resolve this dispute.

9 MR. REESE: I'm sorry.

10 JUDGE ALBERS: Well, again, I still have two
11 concerns. One of them, it's my impression that
12 discovery depositions are more limited, so to speak,
13 at the time they're admitted, and, secondly, as far
14 as your opportunity for redirect, just as a general
15 matter, Complainant's counsel could ask questions on
16 redirect on about anything that was raised on
17 cross-examination, so.

18 But taking the first matter first, which
19 particular avenue, if you will, would you argue that
20 this should be admitted as a discovery deposition?
21 I'm concerned about the precedent.

22 MR. KAUFMANN: Sure.

1 JUDGE ALBERS: It doesn't happen very often,
2 but.

3 MR. KAUFMANN: And I'll concede to Your Honor
4 that it is unusual. I've not done it before under
5 these circumstances. It seems to me that, you know,
6 again it's testimony under oath by the Complainant.
7 We moved for and were granted the opportunity to
8 take his deposition, and there was a request that it
9 be supplied to the Commission as well as to the I
10 believe the Staff member who was overseeing the
11 case. We've done that, and just so the record is
12 complete, I thought we ought to make it part of the
13 record for this hearing. That's my basis for it.

14 MR. REESE: Again, I don't even know what
15 exactly is in it. There's all kinds of exhibits in
16 here that certainly I'd object to. I didn't see
17 these letters from Jamal to different people in the
18 back of it, and the mutual settlement agreement
19 release is in here, the confidential release that we
20 have here. I don't know. I guess I'll have to
21 object to it. It's kind of silly to put a discovery
22 deposition into evidence. It probably jeopardizes

1 my client because he had no counsel there, and of
2 course the rules of evidence are relaxed in
3 discovery depositions to the extent that objections
4 weren't noted and he had no counsel. It would
5 probably be an error to admit it.

6 JUDGE ALBERS: I think I'm going to err on the
7 side of caution and sustain that objection and not
8 allow the admission of Defendant's Exhibit 4.

9 MR. KAUFMANN: Thank you, Your Honor.

10 I do not have any further questions or
11 exhibits.

12 JUDGE ALBERS: And just so I'm clear, you had
13 provided a copy of other exhibits, a copy of that
14 mutual settlement agreement, mutual settlement
15 agreement and release, and it's not your intention
16 to offer that.

17 MR. KAUFMANN: That's correct, Your Honor, and
18 I should -- I think probably, since Number 4 I
19 moved, that it should be part of the record insofar
20 as, you know, it's there to -- because it was moved
21 and not -- and overruled, so I think it needs to be
22 sort of --

1 JUDGE ALBERS: An offer of proof? Is that what
2 you're suggesting?

3 MR. KAUFMANN: Well, yes. I think that would
4 probably be the most expeditious way to do it. I'd
5 just make an offer of proof as to Defendant's
6 Exhibit 4 so at least for appeal purposes, should we
7 ever get that far, then it's part of the record for
8 consideration. I think that would be the best way
9 to go.

10 JUDGE ALBERS: Okay.

11 MR. KAUFMANN: Thank you.

12 MR. REESE: I would note that Number 9 of the
13 settlement agreement indicates that the facts of
14 this settlement and terms thereof should be
15 confidential, not disclosed by any party hereto,
16 except as may be required by state or federal law,
17 and there has been no requirement by the hearing
18 officer that this be disclosed, has there been?

19 JUDGE ALBERS: Is that one of the attachments
20 in the deposition?

21 MR. REESE: No, that's part of the settlement
22 agreement.

1 JUDGE ALBERS: Right. I think he took that one
2 back.

3 MR. REESE: Oh, he did take this one back?

4 MR. KAUFMANN: I did.

5 MR. REESE: Okay. I'm sorry.

6 JUDGE ALBERS: You're just asking that Exhibit
7 4 of the deposition and the attachments thereto be
8 --

9 MR. REESE: I thought he was talking about the
10 other.

11 JUDGE ALBERS: -- considered an offer of proof.

12 MR. KAUFMANN: Yes, Your Honor.

13 JUDGE ALBERS: Okay.

14 MR. KAUFMANN: And there's now been two
15 different comments about the mutual settlement
16 agreement and release, and I just want to state for
17 the record that following our recent telephone
18 conversation in which Your Honor raised the
19 possibility of whether that should be a matter of
20 record --

21 JUDGE ALBERS: That was the last status
22 hearing.

1 MR. KAUFMANN: That's correct. I wrote to
2 Mr. Reese, and obviously not any part of the record,
3 and advised him that if he had a problem with this
4 being part of the record, to let us know. We would
5 join in any sort of motion to take that out of the
6 public record. We're still willing to do so. I've
7 not heard that it's objectionable to Mr. Shehadeh.

8 JUDGE ALBERS: Okay. It sounds like you are
9 objecting to that being in the public record.

10 MR. REESE: Certainly. It's a violation of the
11 agreement. We don't want any part of violating the
12 agreement. That's all I'm concerned about. Whether
13 or not they want to publish it or do whatever they
14 wish to do, that's really up to them.

15 JUDGE ALBERS: Well, my only concern is that
16 when CIPS prefiled their testimony, that was an
17 attachment to the testimony, and that testimony and
18 all the attachments to it are now on e-Docket which
19 is on the Internet.

20 MR. REESE: I know. I don't know what they're
21 going to do about it. I imagine that they should
22 probably get it off there because it violates the

1 agreement.

2 JUDGE ALBERS: That can be done. I'm just
3 asking the parties now, would you like me to make
4 sure that's taken off of e-Docket?

5 MR. KAUFMANN: If Mr. Shehadeh wants it off,
6 which apparently he does, we're agreeable to that as
7 well.

8 JUDGE ALBERS: Okay. I'll take care of that.

9 THE WITNESS: Would I be responsible for anyone
10 who has obtained that information prior to it being
11 removed?

12 MR. REESE: That's a whole other issue. The
13 validity of the settlement agreement -- this is off
14 the record I guess.

15 JUDGE ALBERS: Well, we are still on the
16 record.

17 MR. REESE: I know. I meant to -- I mean he's
18 talking about something that is irrelevant to this
19 case. Whatever.

20 JUDGE ALBERS: I don't think that's something
21 we have to worry about right now, so.

22 MR. REESE: Yeah.

1 JUDGE ALBERS: Before you take some time for
2 redirect, why don't we take a short break, five
3 minutes.

4 Or actually, still on the record, yes, Exhibit
5 4 will be maintained as an offer of proof.

6 (Whereupon a short recess was
7 taken.)

8 JUDGE ALBERS: All right. Back on the record.

9 I have a few questions of my own before I give
10 Mr. Reese an opportunity for redirect, and if you'd
11 like some time to think about my questions before
12 you ask redirect, that's fine.

13 MR. REESE: Sure.

14 EXAMINATION

15 BY JUDGE ALBERS:

16 Q. Mr. Shehadeh, in your testimony, and more so
17 your rebuttal testimony, you speak of some technical
18 issues. What's your training, your background as
19 far as how you got your knowledge of the electrical
20 work?

21 A. Mostly reading and working with it. I've
22 worked this summer at Simplex in engineering

1 designing load banks, so I've gained quite a bit of
2 knowledge since the time this complaint was filed
3 and today. I don't know everything. I don't know
4 half of it, but as far as issues relating to this
5 case, I think I've got a pretty good grasp on what's
6 happening. I rewired my house. I replaced the 100
7 amp service with a 200 amp service, so I have a
8 relative idea of how things work.

9 Q. Have you even taken any courses in electrical
10 engineering?

11 A. Introductory courses at college, but nothing
12 specific.

13 Q. And then earlier I asked you to identify some
14 of the columns on the attachment to your direct
15 testimony, and I have one other question I meant to
16 ask. Do you have that in front of you?

17 A. Which?

18 MR. REESE: Here it is.

19 (Whereupon said document was
20 provided to the witness by
21 Mr. Reese.)

22 Q. Now some of the pages depicting the current

1 recordings, there are numbers in some of the columns
2 beyond the sixth column. Can you tell me what those
3 represents?

4 A. The difference between the current on one leg
5 and the other is picked up by the neutral line, so
6 the third set of columns would be the amount of load
7 on the neutral.

8 Q. Okay.

9 A. Which should be as close to zero as possible,
10 but it's impossible to balance it perfectly all the
11 time, so.

12 Q. Okay. And then attached to your rebuttal
13 testimony there are two pages concerning fuses.

14 A. Yes.

15 Q. Could you just tie that into your rebuttal
16 testimony, please? Like where you discussed it in
17 your rebuttal testimony?

18 MR. REESE: If I may on that, there was some
19 rebuttal testimony that had to do with fuses, and
20 then when I -- when Jamal gave me the pack of
21 exhibits, I struck out the rebuttal question
22 regarding the fuses. I didn't think it was

1 relevant, but I accidentally left the fuse documents
2 in there, in the back, so it really don't relate to
3 anything in the rebuttal testimony that I know of,
4 and that was my fault, and I just didn't know what
5 they were in the first place. I was ignorant.

6 A. Initially they had accused me of removing
7 fuses. They said I couldn't use that much current
8 without having the fuses bypassed, and these current
9 charts show that the fuses could handle the amount
10 of current.

11 JUDGE ALBERS: Well, to the extent that your
12 rebuttal testimony doesn't address fuses, do you
13 still want these in the --

14 MR. REESE: They aren't relevant, not that I
15 know of.

16 JUDGE ALBERS: -- packet, so to speak?

17 MR. REESE: I've included other things I've
18 felt are relevant in there, but you can take them
19 out.

20 JUDGE ALBERS: No, I'm just asking. Since you
21 indicated those questions were removed, do you want
22 to keep this or pull it out?

1 MR. REESE: I say let's pull them out.

2 JUDGE ALBERS: Pull them out?

3 MR. REESE: Yes, sir. If they're needed, we
4 can always bring them back in.

5 JUDGE ALBERS: This changes the exhibit. Is
6 there any objection to modifying the exhibit?

7 MR. KAUFMANN: No, Your Honor, so long as the
8 record is clear as to what's being removed.

9 JUDGE ALBERS: Okay. We're talking about the
10 two pages. The one is labeled Fusetron
11 Dual-Element, Time-Delay, Class RK5 Fuses, and the
12 second one the top of the page says Time-Current &
13 Current Limitation Curves FRN-R (250V) Class RK5
14 Fuses, and it's Complainant's position that these
15 should not be part of the exhibit?

16 MR. REESE: That's correct.

17 JUDGE ALBERS: Let the record reflect as much.

18 There's no objection from CIPS to that
19 modification.

20 MR. KAUFMANN: That's correct, Your Honor.

21 JUDGE ALBERS: Okay.

22 Q. I think this might be indicated on one of the

1 exhibits that CIPS admitted, but does your house
2 have electric heat?

3 A. No.

4 Q. Is it gas?

5 A. It's gas, but it requires electricity to pump
6 the water through the pipes to heat the registers,
7 so.

8 Q. Okay. And then why do you use the heating
9 elements from a grain dryer to heat your garage?

10 A. Because I mean it's less expensive than
11 purchasing 15 or 20 space heaters. These were
12 available to me. They do the same job, so I used
13 them rather than using space heaters.

14 Q. So basically you could have them at no cost?
15 Did you have to pay for these?

16 A. I didn't have to pay for them.

17 Q. Okay.

18 A. But I have to pay for space heaters, so I just
19 used these. These were given to me to use.

20 Q. Okay. Do you not have any concerns about
21 safety issues?

22 A. There are no safety issues with them.

1 Q. So you have them set up on the garage concrete
2 floor?

3 A. They're mounted on a stand that's suspended
4 from the ceiling of the garage with wire so they're
5 not touching anything.

6 Q. Okay. And you're also complaining about low
7 voltage in the year 2000. Correct?

8 A. Correct.

9 Q. The exhibits or the attachments to your direct
10 testimony appear to be pertaining to 2001. Did you
11 have any evidence of low voltage in 2000?

12 A. No, I do not.

13 Q. Okay.

14 A. Just letting you know that this is a problem
15 every year with my Christmas lights, that this does
16 occur, and my neighbors suffer as well as I do, so.

17 Q. Now do you believe it's strictly the result of
18 Christmas lights?

19 A. It's a factor of many things. Without the
20 Christmas lights, of course, it wouldn't be a
21 problem, but I pay for electricity so I should have
22 the right to use up to what my service is rated for,

1 200 amps. If I want to decorate my house with any
2 more lights than I have already now, I would be able
3 to do so, but I'm only limited by the amount of
4 current that I can pull through those fuses. The
5 voltage drop does occur at times when the current is
6 less than 200. That's just due to the fact that the
7 line wires and triplex are undersized as well as the
8 transformer.

9 Q. So even without the Christmas lights and the
10 heating elements from the grain dryer, you still
11 believe CIPS' service is inadequate?

12 A. Even this summer with just the air conditioning
13 running and other appliances, yes, there are voltage
14 drop problems, not as significant as with the
15 Christmas lights, but enough to warrant concern.

16 Q. And, again, how much of a drop in voltage
17 causes you concern?

18 A. Well, when it's noticeable, when the lights
19 dim. That 5 or 6 volt drop you would be able to
20 notice that, but my Christmas lighting display and
21 heaters and other appliances at times the voltage
22 would drop as much as 17 or 18 volts.

1 Q. So from 120 to --

2 A. 127 I believe is what it would be without the
3 lights and other appliances running, and then it
4 would drop down to about...

5 Q. I wasn't sure I followed that, that last
6 comment. So do you believe -- let me ask you this;
7 do you believe that the voltage should be 120 all
8 the time?

9 A. At least.

10 Q. At least.

11 A. Because that's what the meter is calibrated
12 for. The power meter measures kilowatt consumption
13 which is the product of current and voltage, and if
14 the meter is set for a standard voltage of 240 volts
15 or 120 line to neutral and my voltage drops below
16 that, then essentially I'm over- paying for the
17 power that I'm getting. It costs me more to run
18 certain things.

19 Q. So at no time should your voltage fall below
20 120.

21 A. Correct.

22 Q. And exactly what do you want CIPS to do to make

1 this better?

2 A. Well, I'd like to continue to add more
3 Christmas lights to my house. The next step would
4 be decorating the lawn which require --

5 Q. But as far as equipment modifications.

6 A. Well, I would need a 400 amp service upgrade,
7 from 200 to 400 amps, which they do provide to
8 residential homes. It's mentioned in their
9 specifications book as being residential, up to 400
10 amps, and they would need to size their equipment to
11 accommodate that 400 amp service as well as the
12 neighbors that share my transformer. The
13 transformer that's currently serving my residence
14 and eight or nine others is rated for 208 amps
15 maximum, and when I'm using 200 amps at my house,
16 you know, my neighbors have to share that other 8
17 amps or, you know, the transformer is overloaded,
18 and it is at times overloaded. So that needs to be
19 replaced.

20 Q. At one time you asked for 600 amp service. Is
21 that correct?

22 A. Yes, I did.

1 Q. You no longer seek 600 amp service?

2 A. That was when I needed the -- I was going to
3 use a larger light bulb, the C7, instead of the
4 miniature lights, so, no, I don't need 600. 400
5 would be to sufficient to accommodate me, and 600 is
6 not considered residential so therefore they could
7 charge me for the installation of it.

8 Q. So because you believe 400 amps is still
9 typically residential?

10 A. According to their specs, yes, I should not be
11 charged for it. If my service is using, you know,
12 they assume that a residential service that's rated
13 for 200 amps will be using 30 to 40 amps at the most
14 at any one given time, well, when I use 150 amps
15 continuously 30 days a year, so, you know, the safe
16 thing to do would be to upgrade that to 400 amps
17 instead of having me borderline, maxing out my
18 service. Things overheat. I have problems with my
19 appliances, so this is a problem that needs to be
20 fixed.

21 Q. And whatever upgrades you believe they should
22 make, they should make it without cost to you.

1 Right?

2 A. Correct.

3 JUDGE ALBERS: Okay. I think that's all the
4 questions I had for you.

5 MR. KAUFMANN: Your Honor, may I just suggest
6 this? That CIPS -- you know, rather than getting
7 involved in more questions of Mr. Shehadeh and what
8 have you, if you would likewise give CIPS' witness
9 Mr. Derber an opportunity to respond to, you know,
10 virtually the same questions you asked of
11 Mr. Shehadeh, we do have a response to all of those.

12 JUDGE ALBERS: I intend to. I have my
13 questions written down.

14 MR. KAUFMANN: Okay. Good. Thank you.

15 MR. REESE: I don't have any requests for
16 questions that you asked at this time.

17 JUDGE ALBERS: Okay. Did you have any redirect
18 for your witness?

19 MR. REESE: Yes, just a little bit.

20 REDIRECT EXAMINATION

21 BY MR. REESE:

22 Q. I just want to mention, why should CIPS have to

1 pay for bumping this thing up to 400 watts or amps
2 or I don't even remember what it is now, volt,
3 whatever?

4 A. Amps.

5 Q. Amps.

6 A. Well, I have the need for that size of
7 service.

8 Q. And it's their equipment. Is that their
9 equipment out there that has to be upgraded or
10 yours?

11 A. Both.

12 Q. Okay. But you would have to pay for upgrading
13 yours.

14 A. The majority of the expenditure would be on
15 their end of it.

16 Q. Okay.

17 A. I would have to replace my service disconnect
18 and my meter base and the cables running, you know,
19 to their lines, but the majority of the cost would
20 be on their end, yes.

21 Q. So is there some rule that says that they have
22 to pay for their stuff and you pay for yours

1 somewhere or do you know?

2 A. The exception for them not paying would be if
3 my service were to be classified as temporary or
4 seasonal or standby, and since it's a residential
5 service and the meter is not pulled and the service
6 deenergized after the 90-day period which the
7 National Electric Code recognizes as being
8 temporary, they can't classify my service as
9 temporary, and since their specifications book allow
10 for 100 amp, 200 amp, and 400 amp size residential
11 services, I'm within my rights to request that and
12 to be provided with that without having to pay any
13 additional costs for their crew to install it.

14 Q. Okay. How much would it cost? Did you ever
15 ask them how much it would cost to solve this whole
16 problem so we could all go home?

17 A. They've given me estimates of around \$3,000.

18 Q. That would be their end?

19 A. Yes.

20 Q. How much would your end cost? Do you know?

21 A. A couple hundred dollars.

22 Q. Okay.

1 Now we talked about these heaters. Like I
2 said, it reminds me of the Jetsons. Do you -- what
3 -- I think that they mentioned that they thought
4 that -- at least that CIPS and Mr. Derber claimed
5 that they were not residential in nature. Why do
6 you think these heaters qualify under your service?
7 Why are they allowable under your type of service?

8 A. Well, if you look at their specifications book,
9 it mentions specifically elevators, hoists, arc
10 furnaces, X-ray machines, items that cause voltage
11 fluctuation, as being prohibited on residential
12 services.

13 Q. Is that that inductive load thing you were
14 talking about?

15 A. Well, like a motor, which is inductive load,
16 creates a voltage drop when the motor starts up
17 until it gets up to its running RPM speed. So
18 initially when it's started, there's a large voltage
19 drop or an inrush current, and then as the motor
20 gets up to speed, that levels off, whereas heaters
21 and lights, whether I turned on every one of my
22 30,000 bulbs one at a time in one-hour intervals or

1 all at once, the voltage drop and the amount of
2 current they use is always going to remain constant.

3 Q. So if you turn your heaters on and off, that
4 would be a fluctuating load then.

5 A. That would be a fluctuation, yes.

6 Q. Like back and forth and back and forth.

7 A. Yeah, on and off.

8 Q. If you had blinking lights, I suppose that
9 would be fluctuating too.

10 A. If they all blinked simultaneously, yes.

11 Q. And you don't do that, do you?

12 A. No.

13 Q. It isn't anything that -- you haven't thought
14 about that, have you?

15 A. Yes, I did.

16 Q. Okay. So then in your understanding of reading
17 their specifications then, since your load doesn't
18 fluctuate, that they're allowable.

19 A. It says that appliances such as those heaters
20 shall be connected at 240 volts if the power
21 consumption exceeds 2 kilowatts, and those are 3
22 kilowatts and I had them connected to 240 volts.

1 Q. Is there anything else that you know from what
2 you've read and what you have been able to
3 understand from these specifications that would deem
4 these heaters to be not allowable in a residential
5 home for residential 200 watt service?

6 A. Not that I recall, no.

7 Q. Now you had some question asked to you about
8 appliances and all this kind of stuff. When you get
9 -- you're at 200 amps, right, 200 amp service?

10 A. Uh-huh.

11 Q. When you get power consumption -- and you've
12 seen all these charts -- when you get it up to
13 around 190, how many volts do you end up getting
14 generally?

15 A. Around 110 to 112. I've never been able to use
16 more than 170 amps without the voltage dropping
17 below 113, and of course that depends on what
18 appliances my neighbors are operating at the time as
19 well.

20 Q. Oh, I see. So this not only affects you. If
21 you're using 200 amps, like you said, I guess your
22 neighbors don't have much power to use there either.

1 Is that right?

2 A. Essentially they're being overcharged as well
3 because of the low voltage. Their meter is
4 calibrated for 120 volts line to neutral, and so
5 when their voltage drops below that amount due to my
6 lights coming on, then essentially they're
7 overpaying for their electricity as well.

8 Q. Okay.

9 MR. KAUFMANN: Your Honor, let me object.
10 There's no issue in this case that's been made by
11 any complaint. We have heard for the first time
12 today any alleged customer of CIPS being
13 overcharged, whether it be Mr. Shehadeh or anybody
14 else, and we move to strike any such testimony
15 because it's not at issue in the case. There is no
16 evidence for it other than what Mr. Shehadeh says,
17 and he's admitted he's no expert in electricity, so
18 I think it's inappropriate to be introduced into
19 this proceeding.

20 MR. REESE: I think it's the facts. I mean
21 maybe I'll ask Mr. Derber this, but I think it's a
22 fact the way electricity runs here, and we have to

1 assume certain scientific facts.

2 JUDGE ALBERS: Are you an expert?

3 MR. REESE: I may be.

4 JUDGE ALBERS: Are you an expert?

5 MR. REESE: I'm not an expert in electricity,
6 no.

7 JUDGE ALBERS: You might be testifying here.

8 MR. REESE: That's right. You may call me up
9 and ask me questions, but I think -- and maybe
10 Mr. Derber can qualify the answer and say that maybe
11 it's not true, but I mean if that's part of the
12 problem with voltage, then I think that's just part
13 of the issue here is why -- if all it was was we're
14 just looking at -- we have to look at why the fellow
15 is complaining about the low voltage. What are the
16 problems with the low voltage? I think that's part
17 of the reason why you asked about his appliances.
18 If there's no problem with it, if the neighbors
19 aren't having a problem with it, then that's an
20 issue.

21 Also, if you look at these specifications that
22 CIPS has, it says that they will replace these --

1 where is this? The utilization of equipment. It
2 says right in here that where practical, the
3 electronic changes will be furnished by the company,
4 and I think we need to know when -- you have to have
5 a level of what's practical and what's not. If
6 you're affecting eleven neighbors and you're
7 overcharging them for low amperage, and I think
8 that's the practicability of changing the service,
9 to raise the amperage level up to 113 when you're
10 using over 190 amps.

11 MR. KAUFMANN: It's not an issue in the case,
12 Your Honor. The first time we've heard about it is
13 today, and it should be stricken from the record.

14 JUDGE ALBERS: I agree. This is the first time
15 I've heard any accusations of overcharging for
16 usage. No one has had the opportunity to respond to
17 this, to conduct any discovery regarding this. For
18 that reason, any comments or questions regarding
19 alleged overcharges for usage as a result of low
20 voltage are stricken.

21 MR. REESE: Well, may I ask that at least since
22 it is stricken that we reserve the right, obviously,

1 to file a complaint for the overcharging at a later
2 date?

3 JUDGE ALBERS: You don't have to reserve that
4 right with me.

5 MR. REESE: I just wanted to make sure that we
6 didn't use up our chance to do that today. Thank
7 you.

8 JUDGE ALBERS: As far as I'm concerned, it was
9 not initially raised in this case and it should not
10 be addressed in the order.

11 MR. REESE: Okay.

12 Q. Now there was some question regarding
13 appliances that you were using and that sort of
14 thing, and you testified that -- you said you had
15 some computers that had some sensitivity problems
16 with low voltage.

17 A. Correct, yes.

18 Q. What's that all about?

19 A. The computers were -- the alarm would go off on
20 the computer to indicate a power outage or what it
21 was picking up was low voltage. The computer
22 wouldn't operate at voltage less than 115. I had

1 problems with lights dimming severely in the house,
2 appliances. It's harder on the appliances to run
3 them at low voltage.

4 Q. Why is it harder for appliances to run at low
5 voltage? What happens?

6 A. Well, if a motor is set to run at 120 volts and
7 you're only putting 110 on it, then it requires more
8 current and that's more load going through the wires
9 and eventually over time if the problem is severe
10 enough you could burn up the motor.

11 Q. Okay.

12 There was also -- Mr. Kaufmann brought up the
13 fact that or had you name some specific times and
14 dates as to when your voltage went below the
15 standard code level other than times you used the
16 heaters.

17 A. Correct.

18 Q. And you named off a few of them. How many were
19 there that you know of by going through this
20 exhibit?

21 A. There were I believe three or four different
22 dates, and on some dates there were six instances.

1 I've got November 22nd, November 24th, November
2 21st, November 24th again. December 6th I've got
3 one, two, three, three occasions on December 6th,
4 and then on December 8th I've got one, two, three,
5 four, five, six, seven, eight, eight different
6 instances on December 8th when the voltage was below
7 --

8 Q. And those are times when you didn't have the
9 heaters running.

10 A. Yes.

11 Q. How do you know?

12 A. When I was at school, the heaters cannot be
13 operated.

14 Q. How come?

15 A. I disconnected them completely from the
16 breakers. There was no way that the heaters could
17 be operated without someone going out there and
18 unlocking the disconnect inside of my garage.

19 Q. You don't let your mom do that then.

20 A. No. I told her to stay away.

21 Q. Okay. You told her to stay away. All right.

22 So to your knowledge they were never used during

1 that time.

2 How many times, from looking over it, did you
3 ever calculate how many times that the voltage went
4 under the minimum standard code level when the
5 heaters were running?

6 A. Dozens. If you count every two-minute interval
7 that they took, there's hundreds of them.

8 Q. Hundreds of them?

9 A. But almost every night the lights were on, of
10 course depending on if we were home running
11 appliances at the same time.

12 Q. Uh-huh.

13 A. But for the majority of the time it did drop
14 below 113.

15 Q. And from your assumptions, from your limited
16 knowledge, somewhat greater knowledge than mine
17 certainly, if your voltage is low, then all your
18 neighbors is going to be low too, right?

19 A. Not as bad as mine, but it would have -- since
20 that transformer is rated for only 208 amps, if you
21 exceed that amount, the voltage is going to be
22 significantly lower than if it was at a lesser rated

1 capacity, but part of my problem was the under-sized
2 triplex and line wire that runs from the transformer
3 to my house, and me putting load on that wire caused
4 the voltage to drop even more. So, yes, the
5 neighbors' voltage would be low at those times as
6 well, but not below the limit.

7 Q. Not as low as yours?

8 A. Not as low as mine, no.

9 Q. Okay. Now you talked about the -- I think you
10 already talked about how you figured the -- yeah,
11 you talked about how you calculate voltage. We
12 already got into that, so.

13 A. You mean the volt drop in the triplex?

14 Q. Yeah. Did you previous testify as to how you
15 figured the voltage drop on the triplex?

16 A. I can't remember if I did or not. It's in my
17 testimony.

18 Q. How did you figure it? Because you're looking
19 at these figures and they say 118 or 115. What
20 would 115 be? It says that on these forms. What
21 would that -- or on that paper.

22 A. Measured at my point of entry which is where

1 the voltage rating is suppose to be taken, it would
2 be about 111. Due to a 4 volt drop in the triplex
3 because there's resistance in that wire, and since
4 it is undersized, you know, me pulling that much
5 current through there would cause the voltage to be
6 significantly lower than -- on one end than it would
7 be on the other.

8 Q. How do you know that?

9 A. Their recorder showed one voltage and then at
10 my end at times when I recorded it it would be lower
11 than that.

12 Q. Uh-huh.

13 A. I did record it at times when I knew it was
14 below 113, and then on their recorder it doesn't
15 show any instance where it was below 113, and so I
16 knew that there was some other outside factor
17 contributing to that, and then when I got the
18 manufacturer's specifications for the triplex that
19 runs from their utility post to mine, I figured in
20 the resistance of the triplex and how much current I
21 had on there to figure up what the voltage drop was.

22 Q. So basically it's your contention that you

1 should be able to use your heaters in any event
2 because they're qualified for your type of service.
3 Is that fair to say?

4 A. Yes.

5 Q. But even if you didn't use your heaters, you
6 think the service is still substandard.

7 A. It's still substandard.

8 Q. Why?

9 A. Because at times when appliances and the lights
10 were on, the current still did -- or the voltage
11 still did drop below the minimum required amount of
12 113.

13 Q. Any danger in that?

14 A. Well, yes. Applying load to a triplex and then
15 turning load off, when that triplex heats up it's
16 going to expand and contract since it's aluminum,
17 and eventually it could possibly wiggle its way out
18 of the connections and, you know, fall on to
19 someone's lawn, you know. There's a danger there.

20 MR. REESE: That's all I have.

21 MR. KAUFMANN: I just have limited recross.

22

1 RECROSS EXAMINATION

2 BY MR. KAUFMANN:

3 Q. The last thing you mentioned about danger
4 intrigued me. You've been told several times by
5 CIPS and CIPS' attorneys, specifically me, about
6 dangers of fooling around with electricity at your
7 property. Am I correct?

8 A. Yes.

9 Q. And you understand it is dangerous. Am I
10 right?

11 A. Your reference was to the ladder being on the
12 meter pole which I own which has been there for over
13 a year, and they had knew it was there, and they
14 told me to take it down after I had filed a
15 complaint with the Commerce Commission, and they
16 threatened to turn off my electricity.

17 Q. You're saying that ladder was there for a year?

18 A. That ladder was there Christmas of 2000, and it
19 wasn't until this last summer that you made a deal
20 out of it to have my service disconnected unless I
21 removed it, and that was right after I had been
22 refused my request for a three-phase service upgrade

1 which I had filed a complaint with the Commerce
2 Commission.

3 MR. REESE: I'm going to object to this line of
4 testimony regarding CIPS accusing my client of being
5 dangerous. It's not really relevant in July if we
6 had a ladder up there or not. It's like he's saying
7 they're dangerous. If they want to file a complaint
8 against Mr. Shehadeh saying that he uses dangerous
9 applications of electricity, let them bring one and
10 we'll fight that out another day.

11 MR. KAUFMANN: Well, they brought up the issue
12 of danger, and I'm just following it up to show that
13 CIPS has advised you of the danger of --

14 MR. REESE: I'm still objecting to that.

15 JUDGE ALBERS: I realize that. I'm going to
16 overrule the objection.

17 MR. REESE: Okay.

18 MR. KAUFMANN:

19 Q. Is it your testimony under oath that you had an
20 aluminum ladder propped up against the CIPS pole
21 fooling with a CIPS transformer for a year?

22 A. No. The ladder was on my meter pole which I

1 owned, and that was to run an extension cord over my
2 driveway to the tree in front of my house so they
3 wouldn't be seen in the lawn when I had the
4 Christmas lights on. That ladder, I just stored it
5 against the pole. It was convenient because it's
6 hard to lift up off the ground, and they had known
7 it was out there because the times they had been out
8 there to replace the recorder in 2000, the ladder
9 was propped up there, but it was never an issue
10 until after I filed a complaint the following summer
11 of 2001 due to them refusing to upgrade my service
12 to three-phase, at which point they shut off my
13 electricity twice on days when the temperature was
14 in excess of 95 degrees, once for an entire weekend,
15 and I was forced into either complying with them or
16 going without power.

17 Q. And that's the exhibit we looked at earlier,
18 the July 23, 2001 letter from me advising you of the
19 safety hazard. You then signed the agreement not to
20 engage in this activity again, and they reconnected
21 you. Am I correct?

22 A. It was either sign the agreement or have my

1 power shut off again.

2 Q. Thirty thousand lights you had last year. Am I
3 right?

4 A. Yes.

5 Q. With a plan in the future to have as many as
6 100,000 lights?

7 A. Yes.

8 Q. Which means all over your house, all over your
9 grass, all over your bushes. Anything that's not
10 moving you're going to put lights on it?

11 A. If I'm limited to that, yes.

12 Q. And you put those lights on shortly before
13 Thanksgiving, don't you?

14 A. I started around Halloween.

15 Q. All right. And they're removed shortly after
16 Christmas. Am I right?

17 A. Well, no, huh-uh. I didn't get them all down
18 until July. Some of the tape is still up there.

19 Q. You don't have the lights on --

20 A. Oh, I still ran them periodically, yes.

21 Q. You turn the lights on generally between
22 Thanksgiving and Christmas?

1 A. Well, there were times after that that I did
2 too, yes.

3 Q. What? In July you turn the lights on?

4 A. I don't believe I did in July, no. There were
5 times in January I did, maybe a couple times in
6 February. I don't believe I started taking them
7 down until mid February. When people wanted to see
8 the lights, we'd still turn them on for them.

9 Q. Now, I believe you told Judge Albers that you
10 had no evidence of low voltage in 2000. Am I
11 correct?

12 A. Correct.

13 Q. That's what you told him under oath. Am I
14 right?

15 A. Yes. I don't have evidence.

16 Q. And you stand by that testimony.

17 A. I don't have any physical evidence; no, I do
18 not.

19 Q. All right. And isn't it true for 2000 you were
20 not using the grain dryer elements in your garage?
21 You were using space heaters. Am I right?

22 A. Yes, but I had 20,000 lights rather than

1 30,000.

2 MR. KAUFMANN: All right. That's all the
3 questions I have.

4 JUDGE ALBERS: Okay. Thank you, Mr. Shehadeh.

5 (Witness excused.)

6 Mr. Kaufmann, it's your turn.

7 MR. KAUFMANN: We call Bob Derber to the stand,
8 Your Honor.

9 MR. REESE: Your Honor, is my case closed or do
10 I need to admit any other possible exhibits that I
11 may wish to use?

12 JUDGE ALBERS: I'm sorry. I didn't understand
13 you.

14 MR. REESE: Is my case closed per se on this or
15 should I try to -- should I admit any other exhibits
16 that I might wish to use?

17 JUDGE ALBERS: If you have any cross exhibits
18 that you would want to admit, similar to the way
19 Mr. Kaufmann did, that's --

20 MR. REESE: Well, I know. He had my client
21 look at this one exhibit here that he was using in
22 reference to, and I ask that that be admitted to

1 save time because it does have the specific times
2 when things did get below the level.

3 JUDGE ALBERS: I thought that was the same
4 thing attached to his direct testimony.

5 MR. REESE: Oh yes, it is, but this is yellow-
6 lined. It makes it easier to read as far as when
7 they are, but I guess that's not really that big of
8 an issue. If you have no objection though, you
9 could have the yellow-lined copy so you can see when
10 the times are. I don't care.

11 JUDGE ALBERS: I'm not sure it's necessary. I
12 mean it is what it is in the record whether it's
13 highlighted or not. I mean some of the instances
14 were -- at least a few of the instances were
15 specifically referred to on the record.

16 MR. REESE: Sure. All right. That's no
17 problem.

18

19

20

21

22

1 **ROBERT DERBER**

2 called as a witness on behalf of Central Illinois
3 Public Service Company, having been first duly
4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. KAUFMANN:

7 Q. Please state your name.

8 THE WITNESS:

9 A. Robert Derber, D-E-R-B-E-R.

10 Q. How are you employed, Mr. Derber?

11 A. I'm the Energy Services Specialist for
12 AmerenCIPS at the North Pana, P-A-N-A, Illinois
13 office.

14 Q. In relation to this case did you prepare some
15 direct testimony?

16 A. Yes, I did.

17 Q. I'd like to show you Defendant's Exhibit Number
18 1. Is that a true and accurate copy of the direct
19 testimony together with exhibits which you submitted
20 in this case?

21 A. Yes, it is.

22 Q. If I were to ask you the same questions, would

1 you under oath today give the same answers to those
2 questions?

3 A. Yes, I would.

4 MR. KAUFMANN: Your Honor, I move for admission
5 of Defendant's Exhibit Number 1 and tender the
6 witness for cross-examination.

7 MR. REESE: There are certain -- I've continued
8 my objections in relationship to some of the answers
9 that were in the direct examination as I had before
10 that I don't feel are relevant, particularly all the
11 -- basically all the questions I don't think I
12 answered. The questions aren't numbered, but I did
13 number them myself to some degree.

14 I don't have any objection to question 1 or 2
15 or 3 or 4. Well, 4 I would object to. Even though
16 I rebutted it, I'll object to 5 and 6.

17 JUDGE ALBERS: You object to question number 4?

18 MR. REESE: Yeah.

19 JUDGE ALBERS: Are you familiar with the
20 present complaint by Mr. Shehadeh?

21 MR. REESE: Oh, it's 5. I'm sorry, Judge. I
22 missed the question.

1 JUDGE ALBERS: Okay.

2 MR. REESE: Yeah, that doesn't make a lot of
3 sense, does it? So I guess it's 5 and 6. I don't
4 have a problem with 7. I guess I really just object
5 to 4 and 5 -- or 5 and 6; I'm sorry, the ones I
6 rebutted myself, so take that objection as you wish.

7 JUDGE ALBERS: Okay. Setting aside your
8 objection for a moment, the document offered again
9 has a mutual settlement and agreement and release
10 attached to it, so I presume that it's your
11 intention to have that removed?

12 MR. KAUFMANN: We would be happy, Your Honor,
13 to have that exhibit, mutual settlement agreement
14 and release, removed from Defendant's Exhibit Number
15 1.

16 JUDGE ALBERS: And then all other respects it's
17 identical to what is on e-Docket right now?

18 MR. KAUFMANN: Yes, Your Honor.

19 JUDGE ALBERS: Okay. Consistent with my
20 earlier rulings, I'll overrule the objection
21 regarding questions 5 and 6, and with the
22 understanding that the mutual settlement agreement

1 and release is removed from Defendant's Exhibit 1, I
2 believe that takes care of all the objections. I'll
3 admit Defendant's Exhibit 1 into the record.

4 (Whereupon Defendant's Exhibit 1 was
5 received into evidence.)

6 JUDGE ALBERS: Off the record for a minute.

7 (Whereupon at this point in the
8 proceedings an off-the-record
9 discussion transpired.)

10 JUDGE ALBERS: Back on the record.

11 CROSS EXAMINATION

12 BY MR. REESE:

13 Q. There was a question brought up here earlier,
14 Mr. Derber, regarding -- where is your testimony?
15 Here, it is -- regarding voltage and appliances and
16 all that sort of thing. I mean how does voltage
17 affect appliances, in general, lower voltages?

18 A. If it goes beyond certain designed
19 requirements, it's not good for them.

20 Q. Okay. How come? I'm just curious myself
21 actually.

22 A. Because, as Jamal correctly stated, the current

1 goes up to produce the same amount of power for
2 whatever application it is you're trying to use the
3 electricity.

4 Q. And so things like -- okay. All right. That
5 makes sense. And does it affect mostly like things
6 with an inductive load or resistive load or does
7 that make any difference?

8 A. It could affect both, but it's more likely to
9 affect motors and that type of equipment.

10 Q. And those are the things that have fluctuating
11 power?

12 A. No, it's just the way the motors are designed.
13 A resistive load, as the voltage goes down, it would
14 use less current.

15 Q. Can you explain to me what is an inductive
16 load? I mean what is the difference between
17 inductive and resistant, short? Because I just
18 don't know.

19 A. An inductive load is basically created when
20 there are windings involved, coils of wire in an
21 appliance, which is what motors are generally used.
22 A resistive load tends to be something such as a

1 heater, something that gets hot.

2 Q. When he was talking -- when Jamal was talking
3 about why he thought his heaters qualified and he
4 went through this list of stuff, list of other
5 things, like hoists and elevators and welding
6 machines and X-ray machines, are most of those
7 inductive or are they all inductive or are they
8 resistive?

9 A. They are mostly inductive. The ones that you
10 listed there are. There is an extension on that
11 sentence that talks about other loads.

12 Q. Okay. Well, where is the extension? Let's try
13 and figure this out.

14 A. It says other equipment, where the use of
15 electricity is intermittent, or the load fluctuates
16 rapidly, shall be installed and used in a manner
17 that will not adversely affect voltage regulation or
18 impair the company's service to other customers.

19 Q. Now where was that? Are you at the end of (a)?

20 A. End of the first sentence.

21 Q. End of the first sentence. Okay. Intermittent
22 or the load fluctuates rapidly. Does his load

1 fluctuate rapidly?

2 A. In my mind it does.

3 Q. How does it fluctuate? Doesn't he just turn it
4 on and it stays on?

5 A. Well, but it goes from zero to 200 in a matter
6 of one cycle or whatever.

7 Q. Doesn't fluctuates mean more than like one
8 fluctuation or is that just a term of art?

9 A. Not if it would adversely affect the other
10 customers, service to other customers. One
11 fluctuation is -- you know, can be as damaging. I
12 mean he realizes what it does to his lights when he
13 turns those heaters on.

14 Q. So if you have like electric heat in your house
15 and you didn't have your heat on and you turned it
16 all on, wouldn't that be a fluctuation?

17 A. Well, in moderation it doesn't create a
18 problem. A light bulb is a resistive load. If you
19 turn on a light bulb, you don't see it. You turn on
20 your air conditioner, you get a much more dramatic
21 voltage drop than you do with a small load, but the
22 problem he has is that he has a very, very large

1 load that he is impacting our system with.

2 Q. So when it said load fluctuates rapidly, in
3 your mind that means that just turning it on would
4 be a rapid fluctuation.

5 A. And a very large value.

6 Q. Yes or no?

7 A. Yes.

8 Q. Value isn't really included in this, but I
9 guess intermittent is -- is it intermittent? What
10 do you mean? What do you determine, what do you
11 think intermittent means in the context of that
12 sentence?

13 A. Intermittent would tend to mean that it's on
14 and off more often to me. A rapid fluctuation would
15 mean it has a large change in value.

16 Q. So you don't think that fluctuation really
17 means things like motors to where you're talking
18 about to where they have to get going and they slow
19 down and they speed up and they go down? Isn't that
20 more what fluctuation really means in general in the
21 context of this?

22 A. I think that's more directly addressed in some

1 of the itemized lists which are motors.

2 Q. Now in regard to the -- in regard to the
3 heaters again, does he have them hooked up the
4 proper way to your knowledge? If he hooked it up to
5 240, I guess that follows the specifications to some
6 extent. Is that correct?

7 A. That follows the specifications. However, he
8 is, in my mind, overrated because he's putting a 208
9 appliance, which is generally -- 120 / 208 is a
10 three-phase voltage.

11 Q. Would there be any other way to hook it up and
12 be in compliance with the code other than to hook it
13 up to 240?

14 A. Well, to get a heating element that is rated
15 for 240 volts, but those are not appropriately
16 applied in my view.

17 Q. But in effect there's really nothing would
18 indicate that you couldn't wire -- in the code or
19 specs there's nothing that says -- he's doing it
20 properly in regard to the code and specs.

21 A. We don't dictate what the customer does on his
22 side of the meter beyond the fact that it affects

1 our customers and our service to other people.

2 Q. Now I guess you have 400 amp residential
3 service.

4 A. That's correct. That is possible.

5 Q. And how come he doesn't have 400 amp service if
6 he's using all this power and stuff? Might some
7 people get it and he doesn't?

8 A. In my mind, he doesn't warrant it. The
9 discussion that we've had since two years ago has
10 been involved with getting additional power for a
11 Christmas light display. A Christmas light display
12 in our mind is a seasonal load.

13 Q. Even though that you don't have to turn off his
14 meter and as Jamal discussed --

15 A. No, no. Seasonal load for a power company is
16 something where we would expend large volumes of
17 money and not gain any return for it. I mean we
18 have to have some sort of cost justification or we
19 would be building huge transformer installations for
20 anything else. It's not different than what we have
21 treated the City of Shelbyville.

22 Q. So for 400 watt service then, residential

1 service, you have to have -- you can't like go on
2 vacation -- you can't have it as a summer home or
3 something.

4 A. That would be inappropriate.

5 Q. Okay. So people that go to Florida in the
6 wintertime then, they, in fact, probably shouldn't
7 be getting -- you don't think that would be
8 appropriate either I suppose. If they're gone half
9 the year --

10 A. Again, I'm not sure that we would ever have --
11 I don't think we would tell Jamal that he couldn't
12 have a 400 amp residential service if his load
13 demanded it.

14 Q. Uh-huh.

15 A. But if it's because of Christmas lights, then
16 the same thing would apply that it always has and
17 that is that that is a seasonal load.

18 Q. Now he's got a 200 amp service, right?

19 A. That's correct.

20 Q. If he runs -- does that mean in your mind that
21 he ought to be able to run 200 amps in his house, or
22 what does that mean?

1 A. That means that it is designed for that level
2 nominally, and we --

3 Q. That's all I want to know.

4 A. Okay.

5 Q. So if he runs 200 amps, then he should be able
6 to get voltage above the minimal level. Would that
7 be fair to say? I mean if he's going to run 200
8 amps --

9 A. Yes, yes.

10 Q. He should be able to have voltage above -- is
11 it above 113.9? How do you interpret that? Or
12 113.1?

13 A. The code says 113 for two minutes. In other
14 words, it must stay below 113 for two minutes for --

15 Q. So it's below 113.

16 A. That's what it says.

17 Q. And so he would be entitled --

18 MR. KAUFMANN: Judge, excuse me one second.
19 We've had two or perhaps three instances in which
20 Mr. Derber I believe has not yet completed his
21 answer and the next question has come, and I do
22 think it's important that he be allowed to finish

1 his answer so that the record is complete.

2 MR. REESE: I would say that certainly
3 Mr. Kaufmann can ask him any questions that he wants
4 on redirect. My question was limited and Mr. Derber
5 went beyond the scope of my question I felt.

6 MR. KAUFMANN: That's not the way I heard it.
7 I heard that he was trying to give his answer and in
8 the middle of a sentence he was cut off, and it was
9 not a situation where he was volunteering additional
10 information beyond what the question responded to.
11 I think a witness needs to let the Judge know, if
12 you're not done, tell the Judge that you're not done
13 with the answer, and he can take it from there.

14 JUDGE ALBERS: To the extent that the witness
15 answers a question to the satisfaction of the
16 attorney, that's fine. If there's more you believe
17 needs to be elicited from the witness, then that can
18 be taken care of on redirect.

19 MR. REESE: Okay.

20 Q. So basically we're back to -- I think I was
21 talking about 200 amp service, and he should be able
22 to have 113 volts, right, at 200 amps?

1 A. That's correct.

2 Q. Okay. Now when you look at his -- on these
3 charts, and I'm sure you've seen these things.

4 You've examined them. Are there any times when
5 you've looked at these things where he's gone at 200
6 amps and been below that point? I mean you've got
7 volumes.

8 A. If I can look at those specifically, I'd like
9 to address them individually.

10 Q. Well, I mean I don't want to stay here all day.
11 You've got a pile this high of them.

12 A. And believe me, neither do I.

13 JUDGE ALBERS: I appreciate that.

14 A. If we look at the very first one, and it was
15 one of the ones that Jamal discussed as his examples
16 of when he was -- didn't have adequate voltage --

17 Q. Maybe I should just strike this question
18 because he -- I mean I'm not trying to pick on you,
19 and you can do whatever you want, but this could
20 take too long. I mean it's pretty easy to tell by
21 looking at it, if it's 200 amps on one side and
22 there's nothing on the other, so it's kind of a --

1 A. That is true if you're looking at it at the
2 base, and I believe this supports our evidence, and
3 I believe that I answered the question.

4 Q. Okay. Well, that's not --

5 JUDGE ALBERS: Well, wait. I want to hear
6 this. You asked the question, and I want to hear
7 the answer.

8 MR. REESE: Okay. That's fine. I mean I don't
9 know where he was going with it.

10 JUDGE ALBERS: Let me know which --

11 A. Okay. I'm looking at the very first two
12 sheets.

13 JUDGE ALBERS: Okay.

14 A. Number 11 and 72.

15 JUDGE ALBERS: Okay.

16 A. Okay. If you'll notice, at the very beginning
17 of -- well, at 11:08 -- I'm sorry; 11:06, if you
18 look at the current curve on the second page, you
19 will see a current value of 239. Do you see that?

20 JUDGE ALBERS: I see that.

21 A. Okay. After that point you will see that
22 voltages -- that current levels stay below 200 amps.

1 You basically follow that down except for if you
2 start looking over in the left-hand side, there
3 you'll start seeing 208, 207, 211, and again 207.
4 So while this purports to be a case where we didn't
5 have adequate voltage, in actuality it's a
6 representation of when he overloaded our service.
7 Beyond that, if you look at the voltages, even
8 though it is slightly overloaded, if you look at the
9 voltages in the right-hand column, right-hand two
10 columns I should say, 3 and 6, you'll notice that
11 those voltages do not go below the 117 volt level
12 that Jamal has defined as the acceptable limit,
13 taking into account his 4 volt drop.

14 Q. And that would be the high voltage on that,
15 correct?

16 A. That's correct.

17 Q. And the average --

18 A. But --

19 Q. And then I'd like to ask another question, if I
20 could.

21 A. Okay.

22 Q. And the average then would be 117. Is that

1 right?

2 A. That's correct.

3 Q. And that would be 113, and that would be where
4 Jamal was saying or at least he's saying is where
5 the voltage would be low.

6 A. But 117 is still acceptable. Take 4 off of
7 that --

8 Q. And you've got 113.

9 A. And you've got 113.

10 Q. And we can't tell, obviously, and I know you
11 can state whatever you want when your attorney
12 questions you, but we can't tell exactly -- I mean
13 it doesn't say 113.2, and I don't know how do you --
14 let me ask you this. How are these numbers done?
15 Do they round up? Round down? Where do you go?

16 A. I have no idea.

17 Q. It's a creation of CIPS'.

18 A. This is a piece of test equipment that we've
19 purchased, and I do not know the algorithms that
20 they designed this thing to.

21 Q. So it could easily be 116.5 and they're
22 rounding up to 117. You have no knowledge as to --

1 A. It could be 115.5 as well.

2 Q. And you don't know the accuracy of your
3 equipment.

4 A. That's correct.

5 Q. And so basically then any time -- what you're
6 saying is if it says -- if it says 200 on this side,
7 right? Right here? If it says 200 on the second --
8 let's take the second page, one of these "i" pages,
9 which means amps I guess, or he calls it current, if
10 it says 200 here, right? All the way over on the
11 left, then you should be able to get an average of
12 117.

13 A. I did not say that.

14 Q. Okay. Then what should you get then if you
15 have that? Let's say we have 200 amps here. 200
16 amps are running through his service. Should he be
17 able to get 117 on this other side as an average?

18 A. No.

19 Q. Okay. Why not?

20 A. Because it's not the average that we are
21 suppose to be using. The --

22 Q. Okay. What do you use then? Let me ask you

1 another question then. What do you use then?

2 A. Can I finish that?

3 Q. He said no. That was the answer.

4 JUDGE ALBERS: I thought you were answering.

5 A. Okay.

6 Q. Well, I asked you this question. I can ask it
7 again. If the amperage here is 200, and this is a
8 yes or no question, if the amperage here says 200,
9 it should be -- if the amperage here says 200 on the
10 second page, then the voltage should be at least, in
11 theory, 117 or higher.

12 A. What voltage?

13 Q. This voltage, the average or the low or the
14 high.

15 A. One of those, that's correct.

16 Q. Okay. Which one?

17 A. The high.

18 Q. The high. So it's the highest one you take
19 when you're computing whether or not a customer is
20 getting the proper voltage in his home.

21 A. That's correct.

22 Q. Okay. Why do you use the high?

1 A. Because that's what the Illinois Commerce
2 Commission rule dictates.

3 Q. Does it say that in these rule things that we
4 have here?

5 A. Yes.

6 Q. It does say you take the high?

7 A. It doesn't say it in those terms.

8 Q. What's it say?

9 A. It says that during that period, it shall not
10 be -- the period, meaning two minutes, it shall not
11 stay below 113 for two minutes. So if it ever
12 occurred at 119, then at some point in that two-
13 minute period it was 115.

14 Q. Well, we don't have 200 -- of course we don't
15 have 200 amps here anyway. We're only at 178,
16 aren't we? 179. There are a few occasions here
17 where it did jump up a little higher. So in general
18 let's go back and we'll do it this way. If it says
19 200 amps, or "i", or current, on this side, then it
20 should be at least, using Jamal's figures, somewhere
21 around 117 on the high on the other side. Is that
22 right?

1 A. That's accurate.

2 Q. Okay. So that's how we determine whether or
3 not the service is low or not. Right?

4 A. That's correct.

5 Q. Okay. And so you've got -- have you gone
6 through and looked at all these things?

7 A. I've looked at a lot of them.

8 Q. Okay. Obviously I'm not saying that you looked
9 at every one of them.

10 A. That's right.

11 Q. That's probably why you're wearing reading
12 glasses; you looked at too many of them.

13 And so if you had 200 -- and are there
14 occasions in this where you've seen where he's been
15 at say 190 or over -- at 195 and not been able to
16 produce 100 and --

17 A. I can't tell you. I did not memorize those
18 numbers.

19 Q. Okay. But if there were, would that be --
20 would CIPS be wrong by not following the code if, in
21 fact, you discard the heater question?

22 A. Based on this portion of the -- this particular

1 portion of the rule, we should be maintaining 113
2 volts during each two-minute interval when the
3 current stays 200 amps or less in any event.

4 Q. Okay. All right. So that's how we determine
5 right or wrong.

6 A. That's the Illinois Commerce Commission rule.

7 Q. Okay. And you use the high. That makes sense.
8 I understand now.

9 Now in regard to these -- we talked about
10 triplex and subtractions and the triplex and all
11 this. I think in your testimony you said three.

12 A. Right.

13 Q. I mean which one is more accurate do you think?

14 A. Actually, my calculations I came up with 3.6.

15 Q. Okay. What was Jamal's anyway? Do you
16 remember?

17 A. He came up slightly higher, but I think he used
18 the wrong wire in doing his calculation. It's -- .4
19 volts is not a whole lot to worry about.

20 Q. Okay.

21 A. But we're splitting hairs here an awful lot
22 too, whether it's a half a volt or a half a volt. I

1 mean if you're going to try to pin me down, I'm
2 going to use the 3.6.

3 Q. 3.6? If you round it up, it might be 4,
4 depending on what you do. Okay. So we've got that.
5 You're at 3.6 and Jamal is a little higher then in
6 regard to that, but you really can't tell on the
7 .6's anyway since the recording data that we have --

8 A. That's correct.

9 Q. -- doesn't even have points in the first place.

10 A. That's correct.

11 Q. All right. Now the wire leading from the --
12 I'm sure you want to get into this anyway. The wire
13 leading from the transformer, the triplex I guess
14 you call that, that thing is rated for 163, but
15 that's at 100 degrees Celsius rating. Right? Is
16 that what they were talking about? Or 40 degrees
17 Celsius.

18 A. Actually the discussion that they were having
19 was talking about the triplex service and using the
20 sheet from our ratings book. It was talking about
21 the triplex, not the secondary wire that comes from
22 the transformer to Jamal's pole.

1 Q. Okay.

2 A. To my knowledge, my understanding.

3 Q. What is this then? Maybe you can help me.

4 A. That is the secondary wire.

5 Q. Oh, that's the secondary wire. All right.

6 What's this? And that says -- and just -- this says
7 its ampacity is 163 amps, and that's at an ambient
8 temperature -- no, I think you're right. That's at
9 an ambient temperature of 40 degrees --

10 A. Centigrade.

11 Q. Centigrade. Two feet per second wind also. I
12 guess the wind blowing on it or something like that
13 helps cool it off or something?

14 A. Right.

15 Q. And so it's 163. What would it be -- and say
16 it was 30 degrees. Do you know what --

17 A. I don't know what it is.

18 Q. Would it make --

19 A. There are mathematical calculations that can
20 determine that.

21 Q. Well, based on your general knowledge, do you
22 think if it was -- say we brought it down to 40

1 degrees or 50. It can get to be 50 --

2 A. Are you talking Fahrenheit now?

3 Q. Yeah, Fahrenheit, not centigrade. I'm not that
4 educated to do centigrade. So let's say you bring
5 it down to 50 degrees at Fahrenheit. Would it be
6 200 or do you think it would be close?

7 A. It would be well over 200.

8 Q. And why do you -- and that's just because the
9 temperature -- the ambient temperature outside has a
10 tremendous difference on wire?

11 A. And cooling. The reason those ratings are in
12 there is because of overheating of wire and
13 ultimately melting it and sagging it down, and so as
14 it gets cooler, there's a much easier -- it has a
15 much easier time dissipating the heat.

16 Q. So if he was going to put up 4th of July lights
17 or something, that could be a serious problem.

18 A. That would be a different issue.

19 Q. Why do they run -- why are you running -- if
20 it's 200 -- if you're giving him 200 amp service,
21 why do you only give him 163 amp wire at this basis?
22 I guess this is how they rate these things. That's

1 what I understand.

2 A. That's right. There's a thing called
3 diversity. Diversity is the fact that not all
4 appliances in all houses are on all the time. We
5 count on it regularly. That's why we can serve nine
6 houses off a 50 kv transformer because while Jamal's
7 air conditioner is running, his neighbor's isn't
8 and, generally speaking, that is how we can utilize
9 the equipment as fully as possible without
10 overbuilding it for that circumstance that basically
11 doesn't occur.

12 Q. So, in general then, if you have 200 amp
13 service, you're not necessarily going to be able to
14 run 200 amps into your home safely.

15 A. No, I didn't say that.

16 Q. Unless the temperature is warmer outside I
17 suppose.

18 A. Well, if you --

19 Q. Say it's today and it's -- well, say it's 96
20 degrees. Say it was Monday, and you wanted to run
21 200 amps into your home to run whatever you wanted
22 to run, that you would have a right to run 200 amp

1 service like it's rated. Would that be a problem
2 with 163 amp wire?

3 A. It could be. However, most ratings, most
4 ratings have an emergency rating, very similar to
5 the other chart that you saw, that allows it to be
6 overdutied for short periods of time. Most homes
7 also don't carry 200 amps for an extended period of
8 time.

9 Q. Right. But in general though, the 160 would be
10 over -- it would be overburdened, the 163 would be
11 at that.

12 A. It would be fully utilized, yes.

13 Q. Yes, and --

14 A. And then some.

15 Q. And it's certainly more dangerous to use this
16 number -- this size 4 wire than to use a size 2 wire
17 which can handle 219 then capacity.

18 A. It's not more dangerous in either case. It's
19 whether it can carry the capacity.

20 Q. So danger is not a factor. If you put
21 overcapacity into a wire, there's really not any
22 danger there?

1 A. Well, I mean if you went to the end and he were
2 to burn it down, then I suppose at some point in
3 time there could be, again keeping in mind there's
4 an emergency rating on those things that allows us
5 to over-duty to some degree for some period of time.

6 Q. And so this would be -- this is acceptable and
7 as per code.

8 A. Absolutely.

9 Q. And the national -- the NEC code, does it say
10 you can run 163 wire over 200 amp?

11 A. We don't necessarily have to follow all the NEC
12 codes.

13 Q. Oh, I see.

14 A. So.

15 Q. So if I had a section of the NEC code that said
16 that, it isn't necessarily going to be that you have
17 to follow it.

18 A. Right.

19 Q. How come anyway? Why don't you follow the
20 National Electric Code?

21 A. I don't know.

22 Q. Okay. That's a good answer.

1 And is there some specific code that CIPS has
2 as to what kind of wire you put on 200 amp service?

3 A. We have standard wire sizes that we use.

4 Q. I guess I'll just show you the standard. I
5 don't know. That's what he says; they're standards.
6 I don't understand any of these things. What does
7 it say? That's for 200 amp service, 2 /0 AWG.
8 What's that?

9 Q. Two aught American Wire Gauge?

10 Q. Oh, this isn't two aught. This is four, isn't
11 it?

12 A. What is?

13 Q. This wire that runs from those things.

14 A. Right.

15 Q. So in other words, this isn't up to your
16 standards, is it?

17 A. Yes, it is.

18 Q. Oh, okay. I thought 200, you'd have to go to
19 2.

20 A. This doesn't talk about our secondary wire.

21 Q. Oh, okay. I don't know.

22 A. This talks about the wiring in our mast head

1 and to his main disconnect.

2 Q. Okay. So there's a standard for that. What
3 kind of wire do you have on his? Do you have four
4 or two running from whatever you just said?

5 A. He runs this.

6 Q. Okay.

7 A. This is his wire. If it's up to spec, it
8 should be 2 aught copper or 4 aught aluminum.

9 Q. So he has to run 2 aught, but you only have to
10 run 4 aught?

11 A. That's right.

12 Q. How come?

13 A. That's the way it is.

14 Q. And so he can't -- so in other words -- I just
15 wondered if the --

16 A. His wire is in conduit, so it does not
17 dissipate heat like our wire that's out in the open
18 air.

19 Q. Okay. And so there are no -- CIPS doesn't have
20 any strict standards as to how much -- so could you
21 run lower? Can you go down and put this 6 gauge
22 wire on at 130? Would that be safe?

1 A. I thought we just established that safety isn't
2 the issue.

3 Q. Okay. Would the load -- well, I don't know.
4 Would the load then be a problem for a 6 gauge wire?

5 A. It depends on the type of customer that's on
6 there.

7 Q. All right.

8 A. Just because they've got a 200 amp service, you
9 can put a 200 amp service on a fishing cottage.

10 Q. Sure.

11 A. In that case that would be perfectly
12 acceptable. If it's on a mansion, it may be of
13 question.

14 Q. Is that what you'd generally put bigger service
15 on, mansions and things like that?

16 A. Generally they have a greater demand, yes.

17 Q. Okay.

18 A. But, again, the customer determines that.

19 Q. Sure.

20 A. They decide whether they want a 200 amp service
21 as Jamal did. He had a 100 amp service. He wanted
22 it upgraded. He upgraded it to 200 amp, and we

1 upgraded our facilities equally to match his
2 increase.

3 Q. But you won't go to four. You'll just go to
4 two, right? Yes or no? You wouldn't go to four.
5 You'll go to two, but you want go to four.

6 A. No, we would go to four.

7 Q. You'll give him 400 amp service?

8 A. Give?

9 Q. No, but you'll supply the wire to his facility
10 for 400 amp residential service.

11 A. If he's willing to pay the cost, absolutely.

12 Q. But you just said that -- well, the 200 amp
13 service you paid the cost, right?

14 A. That's right; we did.

15 Q. Is there something in the CIPS code that says
16 that you'll pay for two but not for four?

17 A. We pay for what is appropriate.

18 Q. Okay. So you don't feel 400 is appropriate.

19 A. No, we do not.

20 Q. Okay. And that's because you feel the voltage
21 never -- at 200 amps, you can run 115 volts, 113
22 volts.

1 A. No, it's because -- would you restate the
2 question?

3 Q. You feel that service is appropriate, 200 amp
4 service, because you can run 200 amps and it will
5 produce 113 volts, because that's what you have to
6 have to have service correct with the code.

7 A. We believe the 200 amp service is appropriate
8 for his dwelling.

9 Q. Even if --

10 A. Beyond the dwelling situation is the question
11 of seasonal loads for the lights and inappropriate
12 application of heaters on a residential service.

13 Q. And so how many heaters do you -- how many
14 heaters do you allow people to have in their home?
15 Say I had baseboard heaters. Do you guys have some
16 rule that you can't have baseboard heaters in your
17 house?

18 A. We don't have a specific rule. We have
19 utilization equipment standards that state how we
20 determine whether there's a problem or not.

21 Q. All right. So then basically then it would be
22 -- it's your contention then that for Jamal's

1 certain situation, even though he has got 200 amp
2 service, he isn't necessarily entitled to 113 amp at
3 his point of delivery. Yes or no? He's not
4 entitled -- even though he's got 200 amp service,
5 he's not entitled to 13 volts off that 200 amp
6 service and it's not -- he's not entitled to that.
7 Yes or no?

8 A. He is entitled to that.

9 Q. Okay. That's yes or no. That's all. He can
10 straighten it up.

11 So what do you think would satisfy Jamal's
12 service to the extent that he wouldn't have this
13 voltage problem and he would still be able to run
14 his lights and a few heaters in the garage? Woud it
15 be the wire? Would it be the transformer? What do
16 you think it's going to be? Do you have any idea?

17 A. I don't think it's anything on our system. I
18 think it's his utilization of his equipment
19 appropriately.

20 Q. Okay. Did they complain to you specifically
21 about some lady apparently complained about her
22 voltage? Was that to you or do you know anything

1 about that?

2 A. The call actually came to our call center. I
3 responded by calling and talking to the lady.

4 Q. Oh, you did talk to the lady.

5 A. Yes, I did.

6 Q. Okay. And she never called back or anything?

7 A. No, she did not.

8 Q. Is she the one that just talked about her
9 refrigerator or something?

10 A. That's correct.

11 Q. Is that possible that her refrigerator could be
12 damaged? I don't know. Is she right?

13 A. I guess it's possible if the voltage went down
14 long enough. Those incidents that we were talking
15 about where there was 400 amps applied to our
16 service, those didn't stay -- that didn't stay on
17 very long.

18 Q. Right.

19 A. Jamal quickly turned it back off. We
20 appreciated it.

21 Q. Is there any kind of -- yeah, I guess. Is
22 there any kind of rule that says how many amps you

1 can draw on a service? If he's at 200 amp service,
2 then he's only allowed to draw 200? Is that some
3 kind of a rule?

4 A. That's what it's designed for.

5 Q. Okay.

6 Q. Yes.

7 Q. Do people go over that sometimes or not on a
8 regular basis?

9 A. Not to our knowledge.

10 Q. Okay.

11 A. Or not to my knowledge.

12 MR. REESE: All right. That's all I have.

13 JUDGE ALBERS: Okay. I have a few.

14 EXAMINATION

15 BY JUDGE ALBERS:

16 Q. The first one is an easy one. On page 2 of
17 your testimony, the first full question and answer,
18 you referred to this year's display. Is that --
19 you're not talking about a display in 2002, are you?
20 You're talking about a display from 2001?

21 A. Yes, that's correct.

22 Q. Okay. I just wanted to make sure I was clear

1 on that.

2 Then could you describe what is meant by
3 triplex?

4 A. Triplex is three wires basically wrapped
5 together. It's generally what you see coming from
6 the pole to most people's houses.

7 Q. Is that aluminum?

8 A. It can be aluminum or copper.

9 Q. Or copper?

10 A. It can be either.

11 Q. Assuming that Mr. Shehadeh wanted to continue
12 to put the type of load on his system that he
13 allegedly has been putting on the CIPS system, what
14 types of equipment upgrades or modifications do you
15 believe would be necessary?

16 A. Are we talking about the heaters or are we
17 talking about the Christmas lights or are we talking
18 about the normal house?

19 Q. Let's say all of the above. If he wanted to
20 maintain the Christmas light usage and the heater
21 usage and whatever load the house normally carries.

22 A. I don't think there's any changes that we

1 should be making according to our procedures and the
2 ICC policies. I believe the load that he's putting
3 on us is not appropriate and therefore is not
4 protected by the 113 volt requirement.

5 Q. But setting aside the issue of whatever the
6 rules require, just from a purely technical
7 perspective.

8 A. The vast majority of the voltage drop is
9 occurring in his service wire and our secondary
10 wire. If we would upgrade both of those, it would
11 probably eliminate his problem as long as he stayed
12 within the confines of the 200 amps.

13 Q. Okay. But if he wanted -- if he got 400 amp
14 service, would the transformer have to be upgraded?

15 A. Yes, absolutely. If he goes to 400 amp
16 service, major modifications are required on our
17 system. We would probably have to set a dedicated
18 transformer, transformer serving just him. We would
19 probably have to extend some primary wire to get
20 that transformer near the front of his house, and
21 we'd have to deal with a bunch of trees and stuff in
22 front of his house, but basically we would have to

1 upgrade the transformer installation and the service
2 wire into his house.

3 Q. When you say primary and secondary, what --

4 A. Primary high voltage and secondary the service
5 voltage to his house.

6 Q. Okay. And from the testimony that I've seen,
7 it seems like there's at least at some points some
8 discussion of making such changes or similar
9 changes. Is that where the \$3,100 charge came in?

10 A. Oh, yes, yes.

11 Q. Okay.

12 A. That was a quote given two years ago. It's no
13 longer valid, but that was the type of number that
14 we were looking at at that time.

15 Q. Okay. So you believe it would be more now?

16 A. I know it would be more now.

17 Q. Do you have a ballpark estimate?

18 A. I bet you're talking 4,500 to 5,000. We have a
19 new policy.

20 Q. And then which CIPS tariff governed that again?
21 Would that be the --

22 A. Govern which?

1 Q. Well, if Mr. Shehadeh wanted to request an
2 upgrade such as that.

3 A. Yes.

4 Q. What CIPS tariff would be covering that?

5 A. I don't have it here in front of me and I don't
6 remember the number, but it's basically the excess
7 facilities tariff.

8 Q. The one attached to your testimony?

9 A. Yes, yes, yes. I'm sorry. Yes.

10 Q. And the excess facilities installations and the
11 aid to construction, those would both apply?

12 A. They're both, in essence, the same animal.
13 Yes.

14 Q. Okay. But the aid to construction seems to
15 refer to more seasonal usage.

16 A. Right.

17 Q. Okay.

18 Do you agree that the voltage be taken at the
19 customer's meter, a reading of the voltage?

20 A. It's at the actual service equipment. That's
21 at the mast head above the meter. It's, in essence,
22 the same or very close to the same.

1 Q. Okay. That's what I was getting at.

2 A. Yes.

3 Q. And so in this case you didn't take the voltage
4 at that point?

5 A. That's correct.

6 Q. Is there a reason?

7 A. Yes.

8 Q. Can you give me the reason?

9 A. I'm only answering the questions.

10 Q. Okay. That's what you were told by your
11 lawyer.

12 A. We were concerned about previous dealings with
13 Jamal that our equipment may be tampered with.

14 Q. Okay. Do you believe generally that his
15 estimate of a 4 volt decrease between the
16 transformer and his meter would be accurate?

17 A. It's actually four between the meter or between
18 our monitoring equipment and his service mast.

19 Q. Okay.

20 A. And, as I stated, 3.6 is the number that I
21 actually calculated.

22 Q. Okay.

1 A. So about.

2 JUDGE ALBERS: I think all the questions that
3 -- the ones I've already asked and the questions
4 that Mr. Reese asked pretty much cover all the
5 points I wanted to cover, so thank you.

6 Do you have any redirect?

7 MR. KAUFMANN: I do, Your Honor. Thank you.

8 REDIRECT EXAMINATION

9 BY MR. KAUFMANN:

10 Q. Mr. Derber, you've been employed by CIPS since
11 1975?

12 A. Correct.

13 Q. What? Some 27 years?

14 A. Correct.

15 Q. In that 27-year period of time in the course
16 and scope of your employment by CIPS have you
17 applied and interpreted CIPS guidelines and
18 specifications?

19 A. Yes, I have.

20 Q. Have you also interpreted and applied
21 guidelines at the Illinois Commerce Commission?

22 A. Yes, I have.

1 Q. Do you have an opinion as to whether or not in
2 connection with the service provided to the Shehadeh
3 residence whether the CIPS guidelines as well as the
4 ICC guidelines have been complied with?

5 MR. REESE: Well, I'm going to object because
6 that's the ultimate question. It's your decision.
7 I think that's kind of silly.

8 JUDGE ALBERS: I think I know his answer.

9 MR. REESE: I know; I know. Go ahead. Okay.
10 I'll strike my objection. Go ahead.

11 A. I believe that we have used our best judgment
12 and ability to follow both the guidelines and the
13 rules.

14 Q. And you believe they have been?

15 A. Absolutely.

16 Q. Mr. Shehadeh calculated the use of 120 amps for
17 his Christmas light display. What is the correction
18 calculation of that?

19 A. That's not wrong on the surface, but it I guess
20 isn't a totally true picture of what's going on.
21 Because he's got 120 /240 volt service, it is
22 appropriate to split those two sets of lights

1 between the two halves of the service. There's two
2 120 volt halves that provide his service. When
3 splitting that on the total 240 volt service, 60
4 amps is how much at 240 volts he's using, leaving
5 him with 160 amps of capacity still available; 140
6 amps of capacity still available for use on his
7 house and his heaters or whatever else he may have
8 to run at the house.

9 Q. Okay. You have been shown a couple of
10 different times the highlighted version of
11 Mr. Shehadeh's Exhibit 2 to his prepared testimony,
12 and obviously this is not the first time that you've
13 seen that. Correct?

14 A. Correct.

15 Q. And this is based upon information that was, in
16 fact, supplied by CIPS to Mr. Shehadeh. Am I
17 correct?

18 A. Correct.

19 Q. I believe in response to questions I asked of
20 Mr. Shehadeh, he indicated that the highlights on
21 the exhibit you have before you serve as evidence
22 that CIPS has violated his rights as an electric

1 customer.

2 A. Right.

3 Q. Do you agree with that?

4 A. No, I do not.

5 Q. And while I don't necessarily and I don't think
6 anybody here, especially the Court Reporter,
7 necessarily wants you to go through on a
8 page-by-page basis, could you do so and explain to
9 the Commission and to the Judge that that is, in
10 fact, not the case? That there have not been
11 violations?

12 A. If I can answer that I guess in kind of a
13 generic sense, I hope keeping everybody's time in
14 mind here, I guess the first thing I would point out
15 is that if you look at a lot of the current levels
16 that are shown on these charts, you will see values
17 that exceed 200 on a fairly regular basis.

18 That aside, when you look at some of these long
19 duration highlights, you will also see currents that
20 stay in the 140, 160 range, and then if you look at
21 the corresponding voltage chart, you will see levels
22 above -- at or above 117 volts when using the third

1 and sixth columns, which is appropriate based on the
2 -- what's the right word? The ICC guidelines.

3 So, in a nutshell, you know, you can look at
4 each one of them individually, but you'll see
5 numerous occasions where it's over 200 amps, in
6 which case we do not, in my mind, need to maintain
7 it, and when he keeps it reasonable, 150, 160, 170
8 amps even, we maintain adequate voltage. It's the
9 application of these horrific heaters that are
10 causing him his own problem.

11 Q. And the heaters are these grain dryers or the
12 --

13 A. Grain drying heaters, that's correct.

14 Q. -- auxillary heaters that were located in his
15 garage for Christmas 2001.

16 A. Correct.

17 Q. Without application of those heaters in the
18 fashion that he has employed them, would there be
19 any problem in providing service to him, to his
20 house and including the Christmas light display?

21 A. Not in my opinion, and that's demonstrated or
22 supported by our recording graphs that we received

1 from his residence.

2 Q. All right. And that would include the numerous
3 documents contained within Exhibits 2 and 3?

4 A. That's correct.

5 Q. Now earlier we had some discussion about
6 Defendant's Exhibit 10, and there was some
7 difficulty in interpreting that document, and I
8 believe we promised the court that we would give
9 some explanation to that, and now is that time.

10 A. Okay. This graph shows both 120 volt services
11 that I've talked about, and, as Jamal correctly
12 said, the third one at the bottom is the imbalance
13 between the two currents. As you look at say
14 channel one, left-hand side, there is a group of
15 squiggly lines going across the top of that. That
16 is the voltage curves. Okay? Below that you see a
17 block type curve. That is the current curve.

18 If you notice the correlation, as the block at
19 the bottom goes up to 40 amps, which you read by
20 going over to the right-hand column, you see 0 to
21 100, as it goes up to 40 amps, then if you look
22 directly above it, you will see the voltages drop

1 from 127 to approximately 125 volts. This pattern
2 is repeated on a daily basis six times across this
3 chart.

4 One thing that Jamal has continued to state is
5 that a resistive load does not have a inrush. This
6 graph clearly shows that it does. If you look at
7 the current curve, particularly the second one is a
8 little clearer than the first one. The little box
9 at the bottom, you'll notice that right when that
10 comes on there is a current spike that goes from 40
11 all the way up to 80. If you look at the second and
12 -- or excuse me -- the third and fourth are muddied
13 up by the resistors, resistant heaters coming on,
14 but the fourth one, again, you see that clear spike
15 caused by the current going up. That is a result of
16 heaters. When you first turn them on, they are
17 cold. As they heat up, their resistance value goes
18 up and hence the current comes down. It's not
19 anywhere nearly as dramatic as a inductive load or
20 motor, but it is a factor.

21 So this shows his currents going up and down.
22 The very squiggly lines in the middle are examples

1 of currents going up to 200 or above, and while you
2 can't see it, there is a corresponding voltage going
3 down obviously when those voltages or those currents
4 go up. That's why you need to use the numerical
5 data to figure out what exact actually happened, but
6 this is very illustrative of the overall examples of
7 what we're seeing.

8 You'll also notice that near -- you know, when
9 the lights aren't on, on the current side you see
10 small bumps. Those are the normal operation of a
11 house, a washer/dryer, a light, a television, a
12 computer, a refrigerator. That's what all those
13 little things are, and, as I previous stated,
14 there's a lot of diversity, and even though you add
15 those numbers and put them up on top of these
16 curves, they still don't amount to anything that's
17 got over 100 amps.

18 JUDGE ALBERS: So channel 1 is one hot leg and
19 channel 2 is the second hot leg?

20 THE WITNESS: The other hot leg, and they're
21 basically producing similar results.

22 JUDGE ALBERS: And channel 3 is the neutral?

1 THE WITNESS: Channel 3 is the neutral. That's
2 right.

3 JUDGE ALBERS: Okay.

4 MR. KAUFMANN:

5 Q. Insofar as the issues are concerned in this
6 case, what's the significance of the information
7 shown in Exhibit 10?

8 A. In my mind, it clearly shows that as long as
9 it's lights and the normal operation of a house, we
10 absolutely have no problem. Only when these heating
11 elements are brought into play do problems occur.

12 MR. KAUFMANN: Your Honor, you had earlier
13 reserved ruling on the admissibility of Exhibit 10.
14 I think we've laid an adequate foundation for that
15 document. I'd move for its admission at this time.

16 JUDGE ALBERS: And this is, in fact, from
17 Mr. Shehadeh's house from December 22nd through the
18 27th?

19 THE WITNESS: That's correct. Well, from the
20 service outside his house. That's right.

21 JUDGE ALBERS: Right. Is there any objection?

22 MR. REESE: I don't know. I can't really read

1 it. The numbers aren't very good, but I guess for
2 what it's worth, I don't have any objection.

3 JUDGE ALBERS: Okay. Then Defendant's Exhibit
4 10 is admitted.

5 (Whereupon Defendant's Exhibit 10
6 was received into evidence.)

7 MR. REESE: I have one question. Is there a
8 colored version of this? Is that why you can't read
9 the -- if you look on the top, they've got -- well,
10 it looks like --

11 THE WITNESS: On our computer screen it shows a
12 color.

13 MR. REESE: Yeah, because you can't really tell
14 -- I mean that's what I'm trying to do. I can't
15 really figure out the colors on it. I think it
16 would be a lot nicer, but.

17 MR. KAUFMANN: A couple things just in
18 conclusion.

19 Q. Is it your testimony that the service to the
20 Shehadeh residence that occurs especially between
21 Thanksgiving and Christmas is not temporary but
22 rather seasonal?

1 A. That's correct.

2 Q. And are you aware one way or another as to
3 whether or not the philosophy of the Illinois
4 Commerce Commission is that the cost --

5 MR. REESE: I'm going to object to that before
6 he even asks it. I don't know how he could testify
7 about the philosophy of the Illinois Commerce
8 Commission unless he --

9 JUDGE ALBERS: I want to hear the question
10 first.

11 MR. REESE: Well, I mean I don't think he can
12 comment about what the philosophy of the Illinois
13 Commerce Commission is.

14 JUDGE ALBERS: Let me hear the question first.

15 MR. REESE: All right.

16 MR. KAUFMANN:

17 Q. Do you know whether the philosophy at the
18 Illinois Commerce Commission is that the party which
19 causes the cost should be the party which pays that
20 cost?

21 JUDGE ALBERS: Okay.

22 MR. REESE: And I'm going to object because I

1 don't know if he knows what the philosophy -- unless
2 he has some -- unless he used to work at the
3 Commerce Commission or he's on the Illinois Commerce
4 Commission, how is he going to know the philosophy
5 of the Commerce Commission? I don't think even you
6 know the philosophy of the Commerce Commission or
7 the director of the Commerce Commission does I guess
8 or the governor of the State of Illinois. I think
9 that's a silly question.

10 JUDGE ALBERS: I won't comment.

11 MR. KAUFMANN: He's not on the witness list.
12 Otherwise we'd be calling him I'm sure.

13 JUDGE ALBERS: I can think of ways to rephrase
14 the question, but given the way you've asked it, I'm
15 going to sustain the objection.

16 MR. KAUFMANN: Let me just try on one occasion
17 to try and rephrase it in a non-objectionable way.

18 Q. What, if you know, is the philosophy of the
19 Illinois Commerce Commission, based upon its rules
20 and specifications as you have applied them for the
21 past 27 years, is the philosophy in terms of how
22 costs are borne for electric service?

1 MR. REESE: I'm going to object to that one
2 too. I mean, obviously, we know that for 100 and
3 200 watt service he's already testified they cover
4 it. Sometimes they cover it and sometimes they
5 don't. It's already -- and that's a silly question
6 to start with. Sometimes CIPS does pay for upgrades
7 in power even for service. They did in Jamal's
8 case. So to say the Illinois Commerce Commission
9 has one mind on who pays for what and when and that
10 he's going to know what that is, that's just
11 impossible.

12 JUDGE ALBERS: All right. I'll allow the
13 question and give it the appropriate weight.

14 MR. REESE: Yeah. Sure.

15 THE WITNESS: I'm sorry.

16 MR. KAUFMANN: You can answer.

17 JUDGE ALBERS: You can answer the question.

18 THE WITNESS: Oh. I don't know what the policy
19 of the Illinois Commerce Commission is. I do know
20 that CIPS has implemented this policy consistently
21 and has not had a problem with it being overturned
22 by the Illinois Commerce Commission.

1 MR. KAUFMANN: No further questions. Thank
2 you.

3 RECROSS EXAMINATION

4 BY MR. REESE:

5 Q. Well, have you ever heard of a case where
6 anybody brought up this policy in front of the
7 Illinois Commerce Commission?

8 A. No, I've not.

9 Q. All right. Have you ever testified in one case
10 like this or anything?

11 A. There's never been one like this before.

12 Q. All right.

13 A. That I'm aware of.

14 Q. So -- all right. That's interesting.

15 Now I was talking to Jamal. Now these
16 fluctuations, say he had these heaters and he turned
17 them on one at a time, one at a time, one at a time,
18 one at a time, one at a time. There would be less
19 of a fluctuation, right?

20 A. There would be less of a single fluctuation.
21 Each individual fluctuation would total up to the
22 same thing.

1 Q. Right.

2 A. It would not impact the customers as much as
3 throwing it on all at once. We have already
4 suggested that to Jamal.

5 Q. But once all the heaters are in line and all
6 the lights are going, the reduction in voltage is
7 going to be exactly the same, isn't it?

8 A. Correct.

9 Q. So the only difference you're talking about
10 here and the whole point about fluctuation is you're
11 going to get a spike, but regardless of the spike,
12 if you're running the load, the load is still going
13 to knock the voltage down regardless of whether
14 there's been a fluctuation before the voltage
15 dropped down. Isn't that fair to say? Yes or no?

16 A. You lost me.

17 Q. All right. That was kind of long. I might
18 have lost myself on that one for a minute.

19 Let's just say this. If you run up -- if he
20 turns them on slowly, the only difference -- there's
21 no difference between turning them on one at a time
22 or all at once. The voltage loss is going to be the

1 same regardless if there's fluctuation or not, as
2 long as they're all on, because it's a resistive
3 load.

4 A. I'm sorry. I don't understand your question.

5 Q. All right.

6 A. Particularly when you're talking about
7 fluctuation here. I'm not sure how you're using the
8 term.

9 Q. Okay. Well, let's just say that -- you're
10 saying that there's a fluctuation here because you
11 have these big jump things, right?

12 A. Correct.

13 Q. But that doesn't really affect whether or not
14 the voltage goes below 113, does it? Because if
15 they're all on, it's still going to have the same
16 effect on the voltage.

17 A. Absolutely it does.

18 Q. And so, in fact, if he used the heaters and
19 turned each one on slowly, there wouldn't be these
20 big jumps, but the voltage drop would be the same.
21 There would be no giant fluctuation. There would be
22 a slow fluctuation. Right?

1 A. Okay. The end result after all the heaters are
2 on, the voltage drop is going to be the same at that
3 point whether you turned them all on at once or
4 whether you turned them on as individual steps.

5 Q. Right.

6 A. However, --

7 Q. That's all I had asked you.

8 A. I don't think it is.

9 Q. Okay. Well, go ahead, finish up anyway. Go
10 ahead. I'm sorry.

11 A. But that's not what's happening here. He's
12 turning them all on at once.

13 Q. Right.

14 A. And we suggested to him that he stage them in,
15 and he told us he couldn't do it or wouldn't do it.

16 Q. No, I think the heaters he said he would stage
17 in, right?

18 A. That's not what I remember.

19 Q. I think he said he wouldn't --

20 JUDGE ALBERS: Don't try to testify for
21 Mr. Shehadeh.

22 MR. REESE: I'm not.

1 Q. But there was a question -- do you remember him
2 talking about the lights? How he wouldn't stage his
3 lights in?

4 A. Well, okay. That's probably correct.

5 Q. Okay.

6 A. At that point in time we didn't know what was
7 causing the problem. We thought it was the lights.
8 That's what he had been telling us all along, and
9 until we got our charts back and realized it's not
10 the lights, it's something else.

11 Q. So what if he wanted to run enough lights that
12 would cause 200 amps of power and there weren't any
13 heaters? There were a lot of lights. Would that be
14 against -- would that be against the -- and he
15 phased them on slowly. Would that be against the
16 code I suppose or not?

17 A. If he maintains his voltage and currents within
18 acceptable levels, we'll serve him.

19 Q. So if he decided to run 200 amps of lights and
20 the voltage was down below 113, then it would be --
21 then there might be some problem that you might have
22 to rectify.

1 A. That's correct.

2 Q. Okay. But you're saying -- basically you're
3 saying that since he's using these heaters in
4 addition to his lights, the heaters don't qualify so
5 therefore the whole thing is shot. Right?

6 A. In essence.

7 Q. That's your theory.

8 A. In essence.

9 Q. All right. But there were occasions where, and
10 Jamal at least has testified too, where he wasn't
11 running the heaters and it still got over. How do
12 you explain that? Do you think it's just a fluke or
13 do you know?

14 A. I cannot back that information.

15 Q. Sure.

16 A. As a matter of fact, I don't believe it.

17 Q. Okay. Now you were talking about how you
18 thought maybe Jamal's wiring system would be -- how
19 new wires might be able to help him with his
20 problems on low voltage, right?

21 A. Correct.

22 Q. How much does the new wire cost? How much is

1 that?

2 A. I haven't done an estimate, but you're probably
3 talking, I don't know, \$2,500, \$3,000 at this point
4 in time.

5 Q. Okay.

6 A. I don't know.

7 Q. And so before when he had -- when he asked for
8 the 600 watt service, they said it was going to cost
9 3,100, right?

10 A. That was a 400 amp service.

11 Q. No, he wanted 600 when he got the quote. I
12 think he said 600. But the 400 amp service now
13 costs more because of some policy change or
14 something?

15 A. Correct.

16 Q. What's that? How come it costs more for you
17 guys to put it in because of policy?

18 A. Because of a tax gross-up policy that is in
19 place in AmerenCIPS that our company determined that
20 we were not fully recovering our cost due to the
21 fact that we were going to pay capital taxes on
22 capital expenditures forever even though we put it

1 in for a specific application.

2 Q. Oh, because they don't call it -- it's
3 electricity and it's a tangible -- I know. Forget
4 that. That's a whole different argument.

5 All right. So it's going to cost 2,500 for the
6 wire, and how much for the transformer? Then the
7 transformer must not be that -- I thought the
8 transformer would be expensive.

9 A. I wouldn't necessarily plan on replacing the
10 transformer.

11 Q. Okay. But I mean if he was talking about
12 bumping it up to 400 amp service, would you have to
13 replace it?

14 A. Oh, now you're back up into the number that I
15 gave previously.

16 Q. 4,500?

17 A. 4,500, \$5,000.

18 Q. I thought the wire would be the cheap part of
19 the deal and the transformer would be the expensive
20 part.

21 A. Well, in most cases it's neither the wire or
22 the transformer. It's the labor to install it.

1 Q. And that's just all calculated upon your basic
2 labor rates and all that.

3 A. You bet.

4 Q. All right. Now you said that you've got
5 instances in here where it's over 200 at that point,
6 over 200 amps or current or "i", whatever "i" is,
7 that indicate that's when -- that that's when the
8 amperage goes too low. Or, no, that's when the
9 voltage goes too low, right?

10 A. That is one instance when it goes too low.
11 When it goes over 200 amps, then in my mind it's not
12 germane what the voltage is because he's exceeding
13 the service.

14 Q. Did you ever see any occasions when it was like
15 190 to where the voltage might be too low?

16 A. I don't remember.

17 Q. But that wouldn't be right, would it?

18 A. If we were talking a normal load, that would
19 not be right.

20 Q. Why would --

21 A. If we're talking heaters that are not properly
22 applied, then it's not our problem; it's his

1 problem.

2 Q. So you're saying that he can't use 200 amps of
3 service on any resistive load unless he uses things
4 that you want him to use.

5 A. No, I didn't say that.

6 Q. I mean so he could put 200 amps of lights on,
7 but he can't put 200 amps of heaters on, even though
8 they put out the same kind of a load. Is that
9 right?

10 A. I'm saying that he doesn't have a properly
11 applied load.

12 Q. Well, you know, come on. Try to answer it yes
13 or no. He can put 200 amps of lights on his house,
14 right? You don't have a problem with that.

15 A. We said if he did that and it was appropriately
16 done, we would maintain our appropriate voltage.

17 Q. But if he puts 200 amps of this stuff on,
18 you're not -- even though it gives you the same
19 amount, even though it makes no difference in
20 resistiveness, he wouldn't maintain the 200 amps of
21 heaters because there's a difference between heaters
22 and lights. Is that fair to say?

1 A. I don't think that's what I said.

2 Q. I know, but wouldn't that -- I don't know if
3 that's what you said, but I'm asking you to give me
4 an answer on whether or not 200 -- let's just say
5 200 amps of lights is okay. We've already got that
6 done. 200 amps of heaters, let's say he wants to
7 put 200 amps of heaters on his house that look just
8 like that thing, and you say that you can't run 200
9 amps of heaters and that would be bad, right?

10 A. I'm saying he has misapplied that load.

11 Q. All right.

12 A. And, as such, it does not qualify for the 113
13 volt stipulation.

14 Q. So is there any difference between running 200
15 amps of heaters and 200 amps of lights as far as the
16 load or the power is concerned? Isn't this amps to
17 amps?

18 A. I guess I can say yes to that.

19 Q. Okay. There we go. All right.

20 A. You got one.

21 MR. REESE: On that note I may stop. I don't
22 know if I want to -- I better quit while I'm ahead.

1 I think I will. That's all I have.

2 MR. KAUFMANN: Nothing further, Your Honor.

3 JUDGE ALBERS: All right. Thank you,

4 Mr. Derber.

5 (Witness excused.)

6 MR. KAUFMANN: Judge, as a real quick
7 housekeeping matter, I note from my list of exhibits
8 that you had also reserved ruling as to Exhibit 5.

9 JUDGE ALBERS: Exhibit 5.

10 MR. KAUFMANN: And so I'd ask Your Honor to
11 give us a ruling one way or another on that.

12 JUDGE ALBERS: Do you have an objection?

13 MR. REESE: Well, I think it's -- I don't know.
14 For what it's worth, I guess it's not really going
15 to hurt my client. It's just silly. It doesn't
16 have anything to do with their voltage problem. It
17 talks about some ladder. I mean I don't know what
18 that has to do with anything we're doing here today,
19 ladder and meter poles. It's just silly.

20 JUDGE ALBERS: Are you objecting then?

21 MR. REESE: I'm objecting to its irrelevance
22 and nonprobative value.

1 JUDGE ALBERS: Okay.

2 MR. REESE: It's prejudicial too. Throw that
3 in, last minute.

4 JUDGE ALBERS: I think I'll go ahead and
5 sustain that objection.

6 Okay. I believe the only thing we have left to
7 take care of then is a briefing schedule, and I
8 assume both parties will want to submit initial
9 briefs and reply briefs.

10 MR. REESE: Yeah, sure.

11 JUDGE ALBERS: Why don't we go off the record
12 then to discuss dates for that.

13 (Whereupon at this point in the
14 proceedings an off-the-record
15 discussion transpired.)

16 JUDGE ALBERS: Back on the record.

17 Initial briefs will be due October 1st to
18 accommodate some vacation schedules, and reply
19 briefs will be due October 11th.

20 I don't believe there are any outstanding
21 exhibit to be offered. Therefore, there isn't any
22 reason to leave the record open, so therefore I'll

1 go ahead and mark the record Heard and Taken.

2 MR. REESE: Thank you, Your Honor.

3 MR. KAUFMANN: Thank you.

4 HEARD AND TAKEN

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